

WAYS AND MEANS: Husak, Chair; Dieleman and Gratiis

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SENATE FILE 2116  
BY COMMITTEE ON AGRICULTURE  
*approved (p. 237)*

Passed Senate, Date 2-7-86 (p. 269) Passed House, Date \_\_\_\_\_  
Vote: Ayes 45 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved April 28, 1986

A BILL FOR

1 An Act relating to grain dealers and warehouses, by providing  
2 licensing requirements, establishing a grain depositories and  
3 sellers indemnity fund, and providing an effective date.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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*Passed per conference committee rpt.*  
Senate 4-14-86 (p. 1212)      House 4-15-86 (p. 1489)  
42-0                                      65-30

S.F. 2116

1 Section 1. Section 542.1, subsection 3, Code Supplement  
2 1985 is amended to read as follows:

3 3. "Grain dealer" means a person who buys during any  
4 calendar month five hundred bushels of grain or more from the  
5 producers of the grain for purposes of resale, milling, or  
6 processing. However, "grain dealer" does not include a  
7 producer of grain who is buying grain for the producer's own  
8 use as seed or feed; a person solely engaged in buying grain  
9 future contracts on the board of trade; a person who purchases  
10 grain only for sale in a registered feed; a person engaged in  
11 the business of selling agricultural seeds regulated by  
12 chapter 199; a person buying grain only as a farm manager; an  
13 executor, administrator, trustee, guardian, or conservator of  
14 an estate; a bargaining agent as defined in section 542A.1; a  
15 person whose grain dealing facilities are not principally  
16 stationary; or a custom livestock feeder.

17 Sec. 2. Section 542.1, Code Supplement 1985, is amended by  
18 adding the following new subsection:

19 NEW SUBSECTION. 7. "Seller" means a person who sells  
20 grain which the person has produced or caused to be produced  
21 to a licensed grain dealer, and includes a person who executes  
22 a credit sale contract as a seller.

23 Sec. 3. Section 542.3, subsections 4, 5, and 7, Code  
24 Supplement 1985, is amended to read as follows:

25 4. In order to receive and retain a class 1 license the  
26 following conditions must be satisfied:

27 a. The A grain dealer who does not engage in credit-sale  
28 contracts shall have and maintain a net worth of at least  
29 fifty thousand dollars, or maintain a deficiency bond or an  
30 irrevocable letter of credit in the amount of two thousand  
31 dollars for each one thousand dollars or fraction thereof of  
32 net worth deficiency. A grain dealer who does engage in  
33 credit-sales contracts shall have and maintain a net worth of  
34 at least one hundred thousand dollars, or maintain a  
35 deficiency bond or irrevocable letter of credit in the amount

1 of two thousand dollars for each one thousand dollars or  
2 fraction thereof of net worth deficiency. However, a person  
3 shall not be licensed as a class 1 grain dealer if the person  
4 has a net worth of less than twenty-five thousand dollars. A  
5 ~~bond-submitted-for-purposes-of-this-paragraph-shall-be-in~~  
6 ~~addition-to-any-bond-otherwise-required-under-this-chapter.~~

7 b. The grain dealer shall submit, as required by the  
8 commission, a financial statement that is accompanied by an  
9 unqualified opinion based upon an audit performed by a  
10 certified public accountant licensed in this state. However,  
11 the commission may accept a qualification in an opinion that  
12 is unavoidable by any audit procedure that is permitted under  
13 generally accepted accounting principles. An opinion that is  
14 qualified because of a limited audit procedure or because the  
15 scope of an audit is limited shall not be accepted by the  
16 commission. ~~The-grain-dealer-may-elect,-however,-to-submit-a~~  
17 ~~financial-statement-satisfying-the-requirements-of-subsection~~  
18 ~~57-paragraph-"b,"-in-lieu-of-the-audited-financial-statement~~  
19 ~~specified-in-this-paragraph,-and-if-a-grain-dealer-makes-this~~  
20 ~~election-the-commission-shall-cause-the-grain-dealer-to-be~~  
21 ~~inspected-not-less-than-twice-during-each-twelve-month-period,~~  
22 ~~but-not-more-than-five-times-in-a-twenty-four-month-period~~  
23 ~~without-good-cause,-in-the-manner-provided-in-section-542.9.~~

24 c. The A grain dealer who does not engage in credit-sale  
25 contracts shall have and maintain current assets equal to at  
26 least ninety percent of current liabilities or provide a  
27 deficiency bond or an irrevocable letter of credit under the  
28 following conditions:

29 (1) A grain dealer with current assets equal to at least  
30 forty-five percent of current liabilities may provide a  
31 deficiency bond or an irrevocable letter of credit of two  
32 thousand dollars for each one thousand dollars or fraction of  
33 one thousand dollars of current assets that the grain dealer  
34 is lacking to meet the minimum requirement. However, the bond  
35 or irrevocable letter of credit shall not be used for longer

1 than six consecutive months in a twelve-month period.

2 (2) A grain dealer with current assets equal to less than  
3 forty-five percent of current liabilities may provide a  
4 deficiency bond or an irrevocable letter of credit of two  
5 thousand dollars for each one thousand dollars or fraction of  
6 one thousand dollars of current assets that the grain dealer  
7 is lacking to meet the minimum requirement. However, the bond  
8 or irrevocable letter of credit shall not be used for longer  
9 than thirty consecutive days in a twelve-month period.

10 d. A grain dealer who does engage in credit-sale contracts  
11 shall have and maintain current assets equal to at least one  
12 hundred percent of current liabilities or provide a deficiency  
13 bond or an irrevocable letter of credit under the following  
14 conditions:

15 (1) A grain dealer with current assets equal to at least  
16 fifty percent of current liabilities may provide a deficiency  
17 bond or irrevocable letter of credit of two thousand dollars  
18 for each one thousand dollars or fraction of one thousand  
19 dollars of current assets that the grain dealer is lacking to  
20 meet the minimum requirement. The deficiency bond or  
21 irrevocable letter of credit shall not be used for longer than  
22 six consecutive months in a twelve-month period.

23 (2) A grain dealer with current assets equal to less than  
24 fifty percent of current liabilities may provide a deficiency  
25 bond or an irrevocable letter of credit of two thousand  
26 dollars for each one thousand dollars or fraction of one  
27 thousand dollars of current assets that the grain dealer is  
28 lacking to meet the net worth requirement. However, the  
29 deficiency bond or irrevocable letter of credit shall not be  
30 used for longer than thirty consecutive days in a twelve-month  
31 period.

32 ~~A-bond-submitted-for-purposes-of-this-paragraph-shall-be-in~~  
33 ~~addition-to-any-other-bond-permitted-or-required-under-this~~  
34 ~~chapter.~~

35 5. In order to receive and retain a class 2 license the

1 following conditions must be satisfied:

2 a. The grain dealer shall have and maintain a net worth of  
3 at least twenty-five thousand dollars, or maintain a  
4 deficiency bond or an irrevocable letter of credit in the  
5 amount of two thousand dollars for each one thousand dollars  
6 or fraction thereof of net deficiency. However, a person  
7 shall not be licensed as a class 2 grain dealer if the person  
8 has a net worth of less than ten thousand dollars. A-bond  
9 ~~submitted-for-purposes-of-this-paragraph-shall-be-in-addition~~  
10 ~~to-any-bond-otherwise-required-under-this-chapter.~~

11 b. The grain dealer shall submit, as required by the  
12 commission, a financial statement that is accompanied by the  
13 report-of an unqualified opinion based upon an audit performed  
14 by a certified public accountant licensed in this state that  
15 is-based-upon-a-review-performed-by-the-certified-public  
16 accountant. However, the commission may accept a  
17 qualification in an opinion that is unavoidable by any audit  
18 procedure that is permitted under generally accepted  
19 accounting principles. An opinion that is qualified because  
20 of a limited audit procedure or because the scope of an audit  
21 is limited shall not be accepted by the commission.

22 c. The grain dealer shall have and maintain current assets  
23 equal to at least ninety percent of current liabilities or  
24 provide a deficiency bond or an irrevocable letter of credit  
25 under the following conditions:

26 (1) A grain dealer with current assets equal to at least  
27 forty-five percent of current liabilities may provide a  
28 deficiency bond or an irrevocable letter of credit of two  
29 thousand dollars for each one thousand dollars or fraction of  
30 one thousand dollars of current assets that the grain dealer  
31 is lacking to meet the minimum requirement. However, the bond  
32 or irrevocable letter of credit shall not be used for longer  
33 than six consecutive months in a twelve-month period.

34 (2) A grain dealer with current assets equal to less than  
35 forty-five percent of current liabilities may provide a

1 deficiency bond or an irrevocable letter of credit of two  
2 thousand dollars for each one thousand dollars or fraction of  
3 one thousand dollars of current assets that the grain dealer  
4 is lacking to meet the minimum requirement. However, the bond  
5 or irrevocable letter of credit shall not be used for longer  
6 than thirty consecutive days in a twelve-month period.

7 ~~A bond submitted for purposes of this paragraph shall be in~~  
8 ~~addition to any other bond permitted or required under this~~  
9 ~~chapter.~~

10 7. a. When the net worth or current ratio of a licensee in  
11 good standing is less than that required by this section, the  
12 grain dealer shall correct the deficiency or file the  
13 ~~necessary additional~~ a deficiency bond or an irrevocable  
14 letter of credit within thirty days of written notice by the  
15 commission. Unless the deficiency is corrected or the  
16 ~~additional~~ deficiency bond or irrevocable letter of credit is  
17 filed within thirty days, the grain dealer license shall be  
18 suspended.

19 b. If the commission finds that the welfare of grain  
20 producers requires emergency action, and incorporates a  
21 finding to that effect in its order, immediate suspension of  
22 ~~the~~ a license may be ordered notwithstanding the thirty-day  
23 period otherwise allowed by paragraph "a" ~~of this subsection.~~

24 Sec. 4. Section 542.4, Code 1985, is amended by striking  
25 the section and inserting in lieu thereof the following:

26 542.4 PARTICIPATION IN INDEMNITY FUND REQUIRED.

27 A person licensed to operate as a grain dealer under this  
28 chapter shall participate in and comply with the grain  
29 depositors and sellers indemnity fund provided in chapter  
30 543A.

31 Sec. 5. Section 542.9, unnumbered paragraph 1, Code 1985,  
32 is amended to read as follows:

33 The commission may inspect the premises used by any grain  
34 dealer in the conduct of the dealer's business at any time,  
35 and the books, accounts, records, and papers of every grain

1 dealer which pertain to grain purchases are subject to  
2 inspection by the commission during ordinary business hours.  
3 The commission shall cause the business premises and books,  
4 accounts, records, and papers of every grain dealer to be  
5 inspected not less than once during each twelve-month period,  
6 but not more than ~~three~~ four times in a twenty-four month  
7 period without good cause. ~~However, if a class 1 grain dealer~~  
8 ~~elects to submit the unaudited financial statement under~~  
9 ~~section 542.37, subsection 4, paragraph "b," the commission~~  
10 ~~shall cause the grain dealer to be inspected not less than~~  
11 ~~twice during each twelve-month period, but not more than five~~  
12 ~~times in a twenty-four month period without good cause.~~ The  
13 transporter of grain in transit shall possess bills of lading  
14 or other documents covering the grain, and shall present them  
15 to any law enforcement officer or to a person designated as an  
16 enforcement officer under section 542.13 on demand. If there  
17 is good cause to believe that a person is engaged without a  
18 license in the business of a grain dealer in this state, the  
19 commission may inspect the books, papers, and records of the  
20 person which pertain to grain purchases.

21 Sec. 6. Section 542.10, unnumbered paragraph 2, Code 1985,  
22 is amended to read as follows:

23 The commission may revoke a grain dealer's license upon  
24 information without hearing if a grain dealer fails ~~to have~~  
25 ~~sufficient bond on file with the commission, or if a grain~~  
26 ~~dealer fails~~ to submit to inspection.

27 Sec. 7. Section 542.12, Code 1985, is amended to read as  
28 follows:

29 542.12 CLAIMS -- NOTICE.

30 Upon revocation, termination, or cancellation of a grain  
31 dealer license, any claim for the purchase price of grain  
32 against the grain dealer shall be made in writing and filed  
33 with the grain dealer and with the ~~surety on the grain dealer~~  
34 ~~bond issuer of a deficiency bond or of an irrevocable letter~~  
35 of credit and with the commission within one hundred twenty

1 days after revocation, termination, or cancellation. Failure  
2 to make this timely claim ~~shall relieve~~ relieves the surety  
3 issuer and the grain depositors and sellers indemnity fund  
4 provided in chapter 543A of all obligations to the claimant.  
5 ~~However, this section shall not be construed to reduce below~~  
6 ~~the face amount of the bond then in effect the aggregate~~  
7 ~~liability of the surety to other claimants.~~

8 Upon revocation of a grain dealer license, the commission  
9 shall cause notice of such the revocation to be published once  
10 each week for two consecutive weeks in a newspaper of general  
11 circulation within the state of Iowa and in a newspaper of  
12 general circulation within the county of the grain dealer's  
13 principal place of business when that dealer's principal place  
14 of business is located in the state of Iowa. The notice shall  
15 state the name and address of the grain dealer, and the  
16 effective date of revocation, ~~and the name and address of the~~  
17 ~~surety on the grain dealer bond.~~ The notice shall also state  
18 that any claims against the grain dealer shall be made in  
19 writing and sent by ordinary mail or delivered personally  
20 within one hundred twenty days after revocation to the grain  
21 dealer, and the surety on the grain dealer bond to the issuer  
22 of a deficiency bond or of an irrevocable letter of credit,  
23 and to the commission, and the notice shall state that the  
24 failure to make a timely claim does not relieve the grain  
25 dealer from liability to the claimant.

26 Sec. 8. Section 542.18, subsection 2, Code 1985, is  
27 amended to read as follows:

28 2. As a condition of the granting of a license under this  
29 section, the applicant shall file with the commission a bond  
30 payable to the state of Iowa with a corporate surety approved  
31 by the commission in a penal sum of twenty-five thousand  
32 dollars per license, conditioned that the grain seller owns or  
33 controls, free of liens, any grain offered for sale.

34 ~~Cancellation of bonds~~ A bond issued by a surety under this  
35 section shall ~~meet the requirements of section 542.4~~ not be

1 canceled by the surety before at least ninety days' notice by  
2 certified mail to the commission and the bonded grain seller.  
3 The liability of a surety on any bond under this section shall  
4 not accumulate for each successive license period during which  
5 the bond is in force.

6 Sec. 9. Section 542.19, subsection 2, Code 1985, is  
7 amended to read as follows:

8 2. If a co-operative agreement is in effect under this  
9 section, the bonding indemnification requirements of this  
10 chapter may be satisfied by:

11 a. Filing with the commission evidence of a bond or an  
12 irrevocable letter of credit on file with a state or of  
13 participation in an indemnity fund in a state with which Iowa  
14 has a co-operative agreement as provided for by this section.

15 b. Such-bond Indemnification proceeds shall be co-payable  
16 to the state of Iowa for the benefit of sellers of grain under  
17 this chapter in-Iowa.

18 ~~c.--The bond shall be in an amount at least equal to the~~  
19 ~~amounts required by this chapter, provided, however, that any~~  
20 ~~bond required under this chapter for any financial deficiency~~  
21 ~~shall be in addition to the bond posted in any other state.~~

22 Any-bond Indemnification proceeds required by this chapter  
23 may be made co-payable to any state with whom this state has  
24 entered into contracts or agreements as authorized by this  
25 section, for the benefit of sellers of grain in that state.

26 Sec. 10. Section 543.2, Code 1985, is amended to read as  
27 follows:

28 543.2 DUTIES AND POWERS OF THE COMMISSION.

29 The commission may exercise general supervision over the  
30 storage, warehousing, classifying according to grade or  
31 otherwise, weighing, and certification of agricultural  
32 products. The commission may inspect or cause to be inspected  
33 any warehouse. Inspections may be made at times and for  
34 purposes as the commission determines. The commission shall  
35 cause every licensed warehouse and its contents to be

1 inspected once in every twelve-month period, provided that if  
2 a class 1 warehouse operator elects to submit the unaudited  
3 financial statement under section 543.6, subsection 4,  
4 paragraph "b," the commission shall cause the warehouse to be  
5 inspected twice in every twelve-month period. The commission  
6 may require the filing of reports relating to a warehouse or  
7 its operation. If upon inspection a deficiency is found to  
8 exist as to the quantity or quality of agricultural products  
9 stored, as indicated on the warehouse operator's books and  
10 records according to official grain standards, the commission  
11 may require an employee of the commission to remain at the  
12 licensed warehouse and supervise all operations involving  
13 agricultural products stored there under this chapter until  
14 the deficiency is corrected. The charge for the cost of  
15 maintaining an employee of the commission at a warehouse to  
16 supervise the correction of a deficiency is one hundred fifty  
17 dollars per day.

18 PARAGRAPH DIVIDED. The commission may make available to  
19 the United States government, or any of its agencies,  
20 including the commodity credit corporation, the results of  
21 inspections made and inspection reports submitted to it by  
22 employees of the commission, upon payment to it of charges as  
23 determined by the commission, but the charges shall not be  
24 less than the actual cost of services rendered, as determined  
25 by the commission. The commission may enter into contracts  
26 and agreements for such purpose and shall keep a record of all  
27 money thus received. All such money shall be paid over to the  
28 treasurer of state as miscellaneous receipts. The commission  
29 may classify any warehouse in accordance with its suitability  
30 for the storage of agricultural products and shall specify in  
31 any license issued for the operation of any a warehouse the  
32 only type or types and the quantity of agricultural products  
33 which may be exclusively stored in the warehouse. The  
34 commission may prescribe, within the limitations of this  
35 chapter, the duties of licensed warehouse operators with

1 respect to the care of and responsibility for the contents of  
2 licensed warehouses. Grain grades shall be determined under  
3 the official grain standards. The commission may from time to  
4 time publish data in connection with the administration of  
5 this chapter as may be of public interest. The commission  
6 shall administer this chapter.

7 Sec. 11. Section 543.3, subsection 3, Code 1985, is  
8 amended to read as follows:

9 3. When a petition is filed by the commission under  
10 subsection 1 the clerk of court shall set a date for hearing  
11 on the commission's proposed plan of disposition at a time not  
12 less than ten nor more than fifteen days after the date the  
13 petition is filed. Copies of the petition, the notice of  
14 hearing, and the commission's plan of disposition shall be  
15 served upon the licensee and upon the ~~surety-company-issuing~~  
16 ~~the-licensee's~~ issuer of a deficiency bond or of an  
17 irrevocable letter of credit pursuant to section 543.6 in the  
18 manner required for service of an original notice. A delay in  
19 effecting service upon the licensee or ~~surety-shall~~ issuer is  
20 not be cause for denying the appointment of a receiver and  
21 ~~shall is~~ is not be grounds for invalidating any action or  
22 proceeding in connection ~~therewith~~ with the appointment.

23 Sec. 12. Section 543.4, subsections 1, 2, 4, 6, and 7,  
24 Code 1985, are amended to read as follows:

25 1. When the commission is appointed as receiver under this  
26 chapter the ~~surety-on-the~~ issuer of a deficiency bond or of  
27 ~~the-licensee~~ an irrevocable letter of credit pursuant to  
28 section 543.6 shall be joined as a party defendant by the  
29 commission. If required by the court, the ~~surety~~ issuer shall  
30 pay the bond indemnification proceeds or so much thereof as  
31 the court finds necessary into the court, and when so paid the  
32 ~~surety~~ issuer shall be absolutely discharged from any further  
33 liability under the bond or irrevocable letter of credit to  
34 the extent of the payment.

35 2. When appointed as receiver under this chapter the

1 commission is authorized to give notice in the manner  
2 specified by the court to persons holding warehouse receipts  
3 or other evidence of deposit issued by the licensee to file  
4 their claims within one hundred twenty days after the date of  
5 appointment. Failure to timely file a claim shall defeat the  
6 claim with respect to the surety-bond issuer of a deficiency  
7 bond or of an irrevocable letter of credit, grain depositors  
8 and sellers indemnity fund created in chapter 543A, and any  
9 commodities or proceeds from the sale of commodities, except  
10 to the extent of any excess commodities or proceeds of sale  
11 remaining after all timely claims are paid in full.

12 4. The plan of disposition, as approved by the court,  
13 shall provide for the distribution of the stored commodities,  
14 or the proceeds from the sale of commodities, or the proceeds  
15 from any insurance policy, or-surety deficiency bond, or-any  
16 combination-thereof or irrevocable letter of credit, less  
17 expenses incurred by the commission in connection with the  
18 receivership, plus the proceeds from the grain depositors and  
19 sellers indemnity fund in a amount determined pursuant to  
20 section 543A.3 to depositors on-a-pro-rata-basis as their  
21 interests are determined. Distribution shall be without  
22 regard to any setoff, counterclaim, or storage lien or charge.

23 6. The commission ~~shall-be~~ is entitled to reimbursement  
24 out of commodities or proceeds held in receivership for all  
25 expenses incurred as court costs or in handling and disposing  
26 of stored commodities, and for all other costs directly  
27 attributable to the receivership. The right of reimbursement  
28 of the commission ~~shall-be~~ is prior to any claims against the  
29 commodities or proceeds of sales thereof of commodities, and  
30 ~~shall-constitute~~ constitutes a claim against the surety a  
31 deficiency bond of-the-licensee or irrevocable letter of  
32 credit.

33 7. ~~In-the-event~~ If the approved plan of disposition  
34 requires ~~the-sale-of-commodities, or-the~~ a distribution of  
35 cash proceeds ~~from-the-surety-bond, or-both,~~ the commission

1 shall submit to the court a proposed plan of distribution of  
2 those proceeds. Upon such notice and hearing as may be  
3 required by the court, the court shall accept or modify the  
4 proposed plan. When the plan is approved by the court and  
5 executed by the commission, the commission shall be discharged  
6 and the receivership terminated.

7 Sec. 13. Section 543.5, unnumbered paragraph 1, Code 1985,  
8 is amended to read as follows:

9 The commission shall ~~from-time-to-time-make-such~~ adopt  
10 rules as it ~~may-deem~~ deems necessary for the efficient  
11 administration of ~~the-provisions-of~~ this chapter, and may at  
12 ~~its-discretion~~ designate an employee or officer of the  
13 commission to act for the commission in any details connected  
14 with such administration, including the issuance of licenses  
15 and approval of warehouse deficiency bonds or irrevocable  
16 letters of credit in the name of the commission, but not  
17 including matters requiring a public hearing or suspension or  
18 revocation of licenses.

19 Sec. 14. Section 543.6, subsections 4 and 5, Code 1985,  
20 are amended to read as follows:

21 4. In order to receive and retain a class 1 license, the  
22 following conditions must be satisfied:

23 a. The warehouse operator shall have and maintain a net  
24 worth of at least ~~fifty-thousand-dollars~~ twenty cents per  
25 bushel of warehouse capacity, or maintain a deficiency bond or  
26 an irrevocable letter of credit in the amount of two thousand  
27 dollars for each one thousand dollars or fraction thereof of  
28 net worth deficiency. However, a person shall not be licensed  
29 as a class 1 warehouse operator if the person has a net worth  
30 of less than twenty-five thousand dollars. ~~A-bond-submitted~~  
31 ~~for-purposes-of-this-paragraph-shall-be-in-addition-to-any~~  
32 ~~bond-otherwise-required-under-this-chapter.~~

33 b. The warehouse operator shall submit, as required by the  
34 commission, a financial statement that is accompanied by an  
35 unqualified opinion based upon an audit performed by a

1 certified public accountant licensed in this state. However,  
2 the commission may accept a qualification in an opinion that  
3 is unavoidable by any audit procedure that is permitted under  
4 generally accepted accounting principles. An opinion that is  
5 qualified because of a limited audit procedure or because the  
6 scope of an audit is limited shall not be accepted by the  
7 commission. ~~The warehouse operator may elect, however, to~~  
8 ~~submit a financial statement satisfying the requirements of~~  
9 ~~subsection 5, paragraph "b," in lieu of the audited financial~~  
10 ~~statement specified in this paragraph, and if a warehouse~~  
11 ~~operator makes this election the commission shall cause the~~  
12 ~~warehouse operator to be inspected twice during each twelve-~~  
13 ~~month period in the manner provided in section 543.2.~~

14 5. In order to receive and maintain a class 2 license, the  
15 following conditions must be satisfied:

16 a. The warehouse operator shall have and maintain a net  
17 worth of at least twenty-five thousand dollars twenty cents  
18 per bushel of warehouse capacity, or maintain a deficiency  
19 bond or an irrevocable letter of credit in the amount of two  
20 thousand dollars for each one thousand dollars or fraction  
21 thereof of net worth deficiency. However, a person shall not  
22 be licensed as a class 2 warehouse operator if the person has  
23 a net worth of less than ten thousand dollars. ~~A bond~~  
24 ~~submitted for purposes of this paragraph shall be in addition~~  
25 ~~to any bond otherwise required under this chapter.~~

26 b. The warehouse operator shall submit, as required by the  
27 commission, a financial statement that is accompanied by the  
28 report of an unqualified opinion based upon an audit performed  
29 by a certified public accountant licensed in this state that  
30 is based upon a review performed by the certified public  
31 accountant. However, the commission may accept a  
32 qualification in an opinion that is unavoidable by any audit  
33 procedure that is permitted under generally accepted  
34 accounting principles. An opinion that is qualified because  
35 of a limited audit procedure or because the scope of an audit

1 is limited shall not be accepted by the commission.

2 Sec. 15. Section 543.11, unnumbered paragraph 1, Code  
3 1985, is amended to read as follows:

4 When the commission determines that ~~a bond filed under this~~  
5 ~~chapter and approved by the commission, is, or has become,~~  
6 ~~insufficient to secure the faithful performance of the~~  
7 ~~obligations of the licensed warehouse operator, or when the~~  
8 ~~commission determines that~~ insurance is not fully provided as  
9 required under section 543.15, it may require the licensed  
10 warehouse operator to provide additional ~~bond or additional~~  
11 evidence of insurance coverage so that the ~~bond and~~ insurance  
12 conform ~~conforms~~ with the requirements of this chapter. If  
13 additional insurance is not provided within five thirty days  
14 after receipt by the licensee of notice by certified mail, the  
15 license of the warehouse operator concerned shall be  
16 automatically suspended. If additional insurance is not filed  
17 within another ten days, the warehouse license shall be  
18 automatically revoked. ~~If additional bond is not provided~~  
19 ~~within thirty days after receiving notice, the warehouse~~  
20 ~~license shall be suspended. If additional bond is not filed~~  
21 ~~within ten days following suspension, the warehouse license~~  
22 ~~shall be automatically revoked.~~ When a license is so revoked,  
23 the commission shall notify each holder of an outstanding  
24 warehouse receipt and all known persons who have grain  
25 retained in open storage of the revocation. The commission  
26 shall further notify each receipt holder and all known persons  
27 who have grain retained in open storage that the grain must be  
28 removed from the warehouse not later than the thirtieth day  
29 following the revocation. The notice shall be sent by  
30 ordinary mail ~~sent~~ to the last known address of each person  
31 having grain in storage as provided in this section.

32 Sec. 16. Section 543.11, unnumbered paragraph 2, Code  
33 1985, is amended by striking the paragraph and inserting in  
34 lieu thereof the following:

35 If the commission determines that the net worth of a

1 licensed warehouse operator is not in compliance with the  
2 requirements of section 543.6, the commission shall issue a  
3 notice to the warehouse operator and shall suspend the  
4 warehouse operator's license if the warehouse operator does  
5 not provide evidence of compliance within sixty days of the  
6 issuance of the notice. The commission shall inspect the  
7 warehouse at the end of the sixty-day period. If evidence of  
8 compliance is not provided within ninety days of the issuance  
9 of the notice, the commission shall revoke the warehouse  
10 operator's license, and shall again inspect the warehouse. If  
11 a license is revoked, the commission shall give notice of the  
12 revocation to each holder of an outstanding warehouse receipt  
13 and to all known persons who have grain retained in open  
14 storage. The revocation notice shall state that the grain  
15 must be removed from the warehouse not later than the  
16 thirtieth day after the issuance of the revocation notice.  
17 The revocation notice shall be sent by ordinary mail to the  
18 last known address of each person having grain in storage as  
19 provided in this section. The commission shall conduct a  
20 final inspection of the warehouse at the end of the thirty-day  
21 period following the issuance of the revocation notice.

22 Sec. 17. Section 543.12, Code 1985, is amended by striking  
23 the section and inserting in lieu thereof the following:

24 543.12 PARTICIPATION IN FUND REQUIRED.

25 A person licensed to operate a warehouse under this chapter  
26 shall participate in and comply with the grain depositors and  
27 sellers indemnity fund provided in chapter 543A.

28 Sec. 18. Section 543.13, subsections 1 and 3, Code 1985,  
29 are amended by striking the subsections and inserting in lieu  
30 thereof the following:

31 1. A bond or letter of credit on nonbulk grain shall not  
32 be canceled by the issuer on less than one hundred twenty  
33 days' notice by certified mail to the commission and the  
34 principal.

35 3. When the commission receives notice from an issuer that

1 it has canceled the bond or irrevocable letter on nonbulk  
2 grain of a warehouse operator, the commission shall  
3 automatically suspend the warehouse operator's authorization  
4 to store or accept for storage nonbulk grain if a new bond or  
5 irrevocable letter of credit is not received by the commission  
6 within sixty days of the issuance of the notice of  
7 cancellation. The commission shall conduct an inspection of  
8 the licensee's warehouse immediately at the end of the sixty  
9 day period. If a new bond or irrevocable letter of credit is  
10 not provided within ninety days of the issuance of the notice  
11 of cancellation, the commission shall revoke the warehouse  
12 operator's authorization to store or accept for storage  
13 nonbulk grain. The commission shall conduct a further  
14 inspection of the licensee's warehouse after the ninety-day  
15 period. When an authorization to store or accept for storage  
16 nonbulk grain is revoked, the commission shall give notice of  
17 the revocation to all known persons who have nonbulk grain in  
18 storage, and shall notify them that the nonbulk grain must be  
19 removed from the warehouse not later than one hundred twenty  
20 days after the issuance of the notice of cancellation. The  
21 revocation notice shall be sent by ordinary mail to the last  
22 known address of each person having nonbulk grain in storage.  
23 The commission shall cause a final inspection of the  
24 licensee's warehouse after the end of the one hundred twenty  
25 day period.

26 Sec. 19. Section 543.14, Code 1985, is amended to read as  
27 follows:

28 543.14 ACTION-ON-BOND NOTICE -- CLAIM.

29 Any A person injured by the breach of any an obligation of  
30 a warehouse operator, for the performance of which a  
31 deficiency bond or an irrevocable letter of credit has been  
32 given under any of the provisions of this chapter, may sue on  
33 such the deficiency bond or irrevocable letter of credit in  
34 the person's own name in any a court of competent jurisdiction  
35 to recover any damages the person may-have has sustained by

1 reason of ~~such~~ the breach.

2 Upon revocation, termination, or cancellation of a  
3 warehouse license, ~~any~~ a claim against the warehouse operator  
4 arising under this chapter shall be made in writing with the  
5 warehouse operator, and with the surety-on-the-warehouse  
6 issuer of a deficiency bond or of an irrevocable letter of  
7 credit, and with the commission within one hundred twenty days  
8 after revocation, termination, or cancellation. Failure to  
9 make a timely claim ~~shall-relieve~~ relieves the surety issuer  
10 and the grain depositors and sellers indemnity fund provided  
11 in chapter 543A of all obligations to the claimant, ~~however,~~  
12 ~~this-section-shall-not-be-construed-to-reduce-the-aggregate~~  
13 ~~liability-of-the-surety-to-other-claimants-below-the-face~~  
14 ~~amount-of-the-bond-then-in-effect.~~ Upon revocation of a  
15 warehouse license, the commission shall cause notice of ~~such~~  
16 the revocation to be published once each week for two  
17 consecutive weeks in a newspaper of general circulation in  
18 each of the counties in which the licensee maintains a  
19 business location and in a newspaper of general circulation  
20 within the state. The notice shall state the name and address  
21 of the warehouse operator, and the effective date of  
22 ~~revocation, and the name and address of the surety on the~~  
23 ~~warehouse bond.~~ The notice shall also state that any claims  
24 against the warehouse operator shall be made in writing and  
25 sent by ordinary mail to the warehouse operator, and to the  
26 surety-on-the-warehouse-bond issuer of a deficiency bond or of  
27 an irrevocable letter of credit, and to the commission within  
28 one hundred twenty days after revocation, and the notice shall  
29 state that the failure to make a timely claim does not relieve  
30 the warehouse operator from liability to the claimant. The  
31 ~~provisions-of-this~~ This paragraph ~~shall~~ does not apply if a  
32 receiver is appointed as provided in this chapter pursuant to  
33 a petition which is filed by the commission prior to the  
34 expiration of one hundred twenty days after revocation,  
35 termination, or cancellation of the license.

1 Sec. 20. Section 543.15, unnumbered paragraph 1, Code  
2 1985, is amended to read as follows:

3 All agricultural products in storage in a licensed  
4 ~~warehouse, or a warehouse operated under temporary permit as~~  
5 ~~provided in this chapter,~~ and all agricultural products which  
6 have been deposited temporarily in a licensed warehouse  
7 pending storage or for purposes other than storage, shall be  
8 kept fully insured by the warehouse operator for the current  
9 value of such the agricultural products against loss by fire,  
10 inherent explosion, or windstorm. Such The insurance shall be  
11 carried in an insurance company or companies authorized to do  
12 business in this state, and evidence of such insurance  
13 coverage in a form to be approved by the commission shall be  
14 filed with the commission. No insurance policy shall be  
15 canceled by the insurance company on less than ~~fifteen~~ sixty  
16 days' notice by certified mail to the commission and the  
17 principal unless such the policy is being replaced with  
18 another policy and evidence of the new policy is filed with  
19 the commission at the time of cancellation of the policy on  
20 file. Such The insurance shall be provided by, and carried in  
21 the name of, the warehouse operator. Claimants against such  
22 the insurance shall have precedence in the following order:

23 Sec. 21. Section 543.17, subsection 4, Code 1985, is  
24 amended to read as follows:

25 4. All bulk grain whether open storage or having been  
26 placed on warehouse receipt ~~shall be~~ is covered by the  
27 ~~warehouse operator's bond as required under the provisions of~~  
28 ~~this chapter~~ grain depositors and sellers indemnity fund  
29 created in chapter 543A.

30 Sec. 22. Section 543.34, Code 1985, is amended to read as  
31 follows:

32 543.34 ~~USE OF TERM "BONDED WAREHOUSE"~~ DISPLAY OF LICENSE.

33 ~~Upon the filing, with the approval by the commission, of a~~  
34 ~~bond, in compliance with this chapter, for the conduct of a~~  
35 ~~warehouse, such warehouse may be designated as "bonded" but no~~

1 warehouse shall be designated as "bonded" and no name or  
2 description conveying the impression that it is so bonded,  
3 shall be used, unless a bond, as provided for in section  
4 543.13, has been approved by the commission and is uncanceled  
5 and on file with the commission, nor unless the license issued  
6 under this chapter for the conduct of such warehouse remains  
7 in effect. Every warehouse operator's license issued under  
8 the provisions of this chapter shall be conspicuously  
9 displayed in the office of the warehouse for the operation of  
10 which the license has been issued.

11 Sec. 23. Section 543.39, subsection 2, Code 1985, is  
12 amended to read as follows:

13 2. ~~At such time as~~ When the warehouse operator may begin  
14 begins to use the additional facilities described in this  
15 section, the operator must ~~furnish additional bond acceptable~~  
16 ~~to the commission~~ have sufficient net worth under 543.6 or  
17 provide a deficiency bond or an irrevocable letter of credit  
18 to cover the increase in the operator's gross capacity.

19 Sec. 24. NEW SECTION. 543A.1 DEFINITIONS.

20 1. "Commission" means the Iowa state commerce commission.

21 2. "Depositor" means a person who deposits grain in a  
22 warehouse for storage, handling, or shipment, or who is the  
23 owner or legal holder of an outstanding warehouse receipt, or  
24 who is lawfully entitled to possession of the grain.

25 3. "Fund" means the grain depositors and sellers  
26 indemnification fund created in section 543A.3.

27 4. "Grain" means wheat, corn, oats, barley, rye, flaxseed,  
28 field peas, soybeans, grain sorghums, spelt, and similar  
29 agricultural products, as defined in the Grain Standards Act,  
30 which are not contained in sacks.

31 5. "Licensed grain dealer" means a person who has obtained  
32 a license to engage in the business of a grain dealer pursuant  
33 to section 542.3.

34 6. "Licensed warehouse operator" means the same as in  
35 section 543.1.

1 7. "Seller" means a person who sells grain which the  
2 person has produced or caused to be produced to a licensed  
3 grain dealer, and includes a person who executes a credit sale  
4 contract as a seller.

5 Sec. 25. NEW SECTION. 543A.2 PERSONS PARTICIPATING IN  
6 FUND.

7 All licensed grain dealers and licensed warehouse operators  
8 shall participate in the fund. In addition, a grain warehouse  
9 licensed under the United States Warehouse Act, 7 U.S.C. 241,  
10 may participate in the fund and be subject to this chapter if  
11 a cooperative agreement exists both between the federal agency  
12 and the commission and between the federal licensee and the  
13 commission. The agreement between the commission and the  
14 federal licensee shall be ratified each year the federal  
15 licensee elects to participate in the fund. A participating  
16 federally licensed grain warehouse shall meet the minimum net  
17 worth requirements of section 543.6.

18 Sec. 26. NEW SECTION. 543A.3 GRAIN DEPOSITORS AND  
19 SELLERS INDEMNITY FUND.

20 1. The grain depositors and sellers indemnity fund is  
21 created in the state treasury. The general fund of the state  
22 is not liable for claims presented against the grain  
23 depositors and sellers indemnity fund under section 543A.4.  
24 The fund consists of a per-bushel fee remitted by licensed  
25 grain dealers, licensed warehouse operators, and participating  
26 federally licensed grain warehouses under this section, sums  
27 collected by the commission by legal action on behalf of the  
28 fund, and property or securities acquired through the use of  
29 moneys in the fund. The moneys collected under this section  
30 and deposited in the fund shall be used exclusively to  
31 indemnify depositors and sellers as provided in section  
32 543A.5.

33 2. All licensed grain dealers and licensed warehouse  
34 operators shall remit the fee determined by the commission in  
35 accordance with section 543A.4 on:

1 a. All grain delivered to them by depositors or sellers  
2 for storage, sale, or exchange.

3 b. All grain that is being stored by licensed warehouse  
4 operators or participating federally licensed grain warehouses  
5 who own the grain solely, jointly, or in common with others  
6 and who are issuing a receipt for the grain.

7 3. All licensed grain dealers, licensed warehouse  
8 operators, and participating federally licensed grain  
9 warehouses shall account for and remit moneys under subsection  
10 2 to the commission in the manner and using the forms  
11 prescribed by the commission.

12 4. All disbursements from the fund shall be paid by the  
13 treasurer of state pursuant to vouchers authorized by the  
14 commission.

15 5. All interest earned by the fees collected under this  
16 section shall be collected by the treasurer of state and  
17 deposited in the fund and may be used to the extent necessary  
18 to pay the administrative costs of this chapter.

19 Sec. 27. NEW SECTION. 543A.4 ADJUSTMENTS TO FEE.

20 1. The commission shall review annually the debits of and  
21 credits to the grain depositors and sellers indemnity fund  
22 created in section 543A.3 and shall make any adjustments in  
23 the fee required under that section that are necessary to  
24 maintain the fund within the limits established under this  
25 section. Not later than the first day of March of each year,  
26 the commission shall determine the proposed amount of the fee  
27 based on the expected volume of grain on which the fee is to  
28 be collected and that is likely to be handled under this  
29 chapter. The commission shall make any changes in the  
30 previous year's fee in accordance with chapter 17A. The fee  
31 shall become effective on the following first day of July.  
32 The fee shall not exceed one half of one cent per bushel on  
33 all grain on which the fee is to be paid. Until adjusted or  
34 waived by the commission pursuant to this section, the fee  
35 shall be one-half cent per bushel.

1 2. If, at the end of any fiscal year, the assets of the  
2 fund exceed eight million dollars, less any encumbered  
3 balances or pending or unsettled claims, the fee required  
4 under section 543A.3, subsection 2, shall be waived. However,  
5 the commission shall reinstate the fee if the assets of the  
6 fund, less any unencumbered balances or pending or unsettled  
7 claims, are six million dollars or less.

8 Sec. 28. NEW SECTION. 543A.5 CLAIMS AGAINST FUND.

9 1. When a depositor or seller has made a demand for  
10 settlement of an obligation concerning grain on which a fee  
11 was required to be remitted under section 543A.3 and the  
12 licensed grain dealer or licensed warehouse operator has  
13 failed to honor the demand, the depositor or seller, after  
14 providing the commission with evidence of the demand and the  
15 dishonoring of the demand, may file a claim with the com-  
16 mission for indemnification of damages from the grain  
17 depositors and sellers indemnity fund to be measured as  
18 follows:

19 a. The commission shall establish the dollar value of the  
20 loss incurred by a depositor holding a warehouse receipt or a  
21 scale weight ticket for grain that the depositor delivered to  
22 the licensed warehouse operator, and by a seller who has  
23 delivered grain sold on a credit-sale contract to a licensed  
24 grain dealer. The value shall be based on the average fair  
25 market price being paid to producers by the three licensed  
26 grain dealers nearest the warehouse operator or grain dealer  
27 for the grain on the earlier of the date of license suspension  
28 or the date on which the commission received notice that the  
29 receipt, scale weight ticket, or credit-sale contract was  
30 dishonored by the licensed warehouse operator or licensed  
31 grain dealer. All depositors filing claims under this section  
32 shall be bound by the value determined by the commission.

33 b. The dollar value of the loss incurred by a seller who  
34 has sold grain or delivered grain for sale or exchange or for  
35 solicitation or negotiation for sale and who is a creditor of

1 the licensed grain dealer for all or part of the value of the  
2 grain shall be based on the amount stated on the obligation on  
3 the date of the sale.

4 2. The grain depositors and sellers indemnity fund is  
5 liable to a depositor or seller for moneys that the depositor  
6 or seller has not recovered through other legal and equitable  
7 remedies for eighty percent of the loss, as determined under  
8 subsection 1. The aggregate amount recovered by a depositor  
9 or seller under all remedies shall not exceed eighty percent  
10 of the value of the loss. If the moneys recovered by a  
11 depositor or seller under all remedies exceed eighty percent  
12 of the value of the loss, the depositor or seller shall  
13 reimburse the fund in the amount that exceeds eighty percent  
14 of the value of the loss.

15 3. The commission shall determine the validity of all  
16 claims presented against the fund. A claim filed under this  
17 section for losses on grain other than grain stored in a  
18 warehouse operated by a licensed warehouse operator is not  
19 valid unless the seller has made a demand for settlement of  
20 the obligation within twelve months after the grain is priced  
21 or delivered for sale, whichever occurs later except that if  
22 the notice provided in section 542.12 has been given, the  
23 seller must make the demand for settlement of the obligation  
24 within the one hundred twenty day period. A depositor or  
25 seller whose claim has been refused by the commission may  
26 appeal the refusal to either the district court of Polk county  
27 or the district court of the county in which the depositor or  
28 seller resides. The commission shall provide for payment from  
29 the fund to a depositor or seller whose claim has been found  
30 to be valid.

31 4. If at any time the fund does not contain sufficient  
32 assets to pay valid claims, the commission shall hold those  
33 claims for payment until the fund again contains sufficient  
34 assets. Claims against the fund shall be paid in the order in  
35 which they are found to be valid. However, no claims shall be

1 paid before the fund initially reaches one million dollars.  
2 5. If a depositor or seller files an action for legal or  
3 equitable remedies in a state or federal court having  
4 jurisdiction in those matters that includes a claim against  
5 grain upon which the depositor or seller may file a claim  
6 against the fund at a later date, the depositor or seller  
7 shall also file with the commission a copy of the action filed  
8 with the court. In the event of payment of a loss under this  
9 section, the commission shall be subrogated to the extent of  
10 the amount of any payments to all rights, powers, privileges,  
11 and remedies of the depositor or seller against any person  
12 regarding the loss. The depositor or seller shall render all  
13 necessary assistance to aid the commission in securing the  
14 rights granted in this section. No action or claim initiated  
15 by a depositor or seller and pending at the time of payment  
16 from the fund shall be compromised or settled without the  
17 consent of the commission.

18 Sec. 29. NEW SECTION. 543A.6 NO OBLIGATION OF STATE.

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

24 Sec. 30. A person who buys during any calendar month five  
25 hundred bushels of grain or more from the producers of the  
26 grain for purposes of resale, milling, or processing, and  
27 whose grain dealing facilities are not principally stationary,  
28 shall comply with the laws relating to class 2 grain dealers  
29 on January 1, 1986.

30 Sec. 31. Licensed grain dealers and licensed warehouse  
31 operators shall maintain a bond in an amount as required by  
32 the law in effect on January 1, 1986, or an irrevocable letter  
33 of credit in the amount of the bond, until the grain dealer or  
34 warehouse operator has qualified for a license under the  
35 license requirements specified in this Act. The license of a

1 grain dealer or warehouse operator who has received notice of  
2 the cancellation of the required bond shall not be revoked if  
3 prior to revocation, the licensee satisfies the license  
4 requirements of this Act or, if the licensee is in compliance  
5 with the license requirements in effect on January 1, 1986,  
6 the licensee provides an irrevocable letter of credit in the  
7 amount of the bond to the commission. However, all licensed  
8 grain dealers and licensed warehouse operators shall satisfy  
9 the license requirements of this Act on or by June 30, 1986.  
10 Failure to meet the requirements by that date shall result in  
11 the revocation or nonrenewal of their license.

12 Sec. 32. Notwithstanding the provisions of section 543A.5,  
13 the indemnity fund is liable for claims which arise after the  
14 effective date of this Act but before July 1, 1986 only if the  
15 claim is against a licensed grain dealer or licensed warehouse  
16 operation who has complied with section 31 of this Act by  
17 maintaining the bond or irrevocable letter of credit, by  
18 qualifying for a license under the requirements imposed by  
19 this Act, or by providing the irrevocable letter of credit and  
20 meeting the January 1, 1986 license requirements. For claims  
21 arising on or after July 1, 1986, the indemnity fund is liable  
22 for claims against grain dealers or warehouse operators who  
23 have satisfied the licensing requirements of this Act or  
24 against a participating federally licensed grain warehouse who  
25 has satisfied 543A.2.

26 Sec. 33. This Act, being deemed of immediate importance,  
27 takes effect from and after its publication in the  
28 Marshalltown Times-Republican, a newspaper published in  
29 Marshalltown, Iowa, and in The Belle Plaine Union, a newspaper  
30 published in Belle Plaine, Iowa.

31 EXPLANATION

32 This bill creates a grain depositors and sellers indemnity  
33 fund and revises the existing chapters for licensure of grain  
34 dealers and warehouse operators to be consistent with the  
35 fund.

1 References to the bonds permitted to make up a deficiency  
2 in the net worth are clarified to refer to "deficiency bonds",  
3 to differentiate them from the bonds which are no longer  
4 required. An irrevocable letter of credit is also added as an  
5 alternative to the deficiency bond. References to the bonds  
6 previously required for licensure are stricken. For purposes  
7 of licensing, a report of a certified public accountant based  
8 upon a review performed by the accountant may no longer be  
9 substituted for the financial statement and unqualified  
10 opinion based upon an audit performed by a certified public  
11 accountant. For grain dealers, net worth requirements for  
12 those engaged in credit-sale contracts are increased over  
13 those who do not engage in credit-sale contracts.

14 Participation in the indemnity fund is required for  
15 licensure in place of bond requirements.

16 The commission is permitted to inspect the business of a  
17 grain dealer up to four times in twelve months, rather than  
18 three times.

19 Sections 7, 12, and 19 provide that depositors or sellers  
20 shall be given notice of a license revocation which includes a  
21 statement that claim must be made upon the fund within one  
22 hundred twenty days.

23 Section 8 retains bonding language and bond cancellation  
24 provisions for bonded grain sellers.

25 Section 14 requires a minimum net worth of twenty cents per  
26 bushel of warehouse capacity, rather than a straight fifty  
27 thousand dollar requirement.

28 Section 17 provides for separate treatment of nonbulk  
29 grain.

30 Section 24 sets out the definitions for the new chapter.

31 Section 25 allows for federal participation.

32 Section 26 creates the grain depositors and sellers  
33 indemnity fund. It provides that licensed grain dealers and  
34 licensed warehouse operators shall remit a fee on all grain  
35 delivered to them by depositors or sellers for storage, sale,

1 or exchange. Warehouse operators must pay the assessment on  
2 grain they own themselves.

3 Section 27 sets the fee at no more than one-half cent a  
4 bushel, with adjustments to be made annually by the  
5 commission. Until modified or waived, the fee is one-half  
6 cent. The fund is capped at eight million dollars, with  
7 reinstatement of the fee if the fund falls below six million  
8 dollars.

9 Section 28 specifies the procedure for making claims on the  
10 fund, and provides that a depositor's or seller's loss is  
11 compensated at eighty percent of the loss. The commission is  
12 subrogated to the rights and remedies of a depositor or seller  
13 who receives payment from the fund. A seller is required to  
14 make demand for settlement on the grain dealer within twelve  
15 months after the grain is priced or delivered for sale in  
16 order to maintain a claim against the fund.

17 Section 29 specifies that the obligations of the indemnity  
18 fund are not the obligations of the state.

19 Section 30, together with section 1, removes truckers from  
20 licensure as grain dealers and, therefore, out of the fund.  
21 Truck dealers would be required to be licensed and bonded  
22 under existing grain dealer provisions.

23 Section 31 requires that during the interim period between  
24 the effective date of this Act and the relicensure of grain  
25 dealers and warehouse operators under the new requirements,  
26 including their payment into the fund, the grain dealers and  
27 sellers shall maintain their bonds. It also allows licensees  
28 who have not been revoked prior to the effective date of this  
29 Act to retain their licenses if they meet current license  
30 requirements and provide a letter of credit to the commission.

31 Section 32 specifies that persons who comply with section  
32 31 are covered by the fund after the effective date.

33 Section 33 provides for an effective date upon publication.

34  
35

**FISCAL NOTE TO**

REQUESTED BY HUSAK

SENATE FILE 2116

In compliance with a written request received February 5, 1986, a fiscal note for SENATE FILE 2116 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

SENATE FILE 2116 creates a grain depositors and sellers indemnity fund and revises the existing chapters for licensure of grain dealers and warehouse operators to be consistent with the fund.

**ASSUMPTIONS**

1. The annual indemnity fund receipts are estimated as follows:

|        | Ave. Production<br>(millions of bushels) |   | % Sold |   | Grain Sold or in Storage<br>(millions of bushels) |
|--------|------------------------------------------|---|--------|---|---------------------------------------------------|
| Corn:  | 1,575.3                                  | x | .55    | = | 866.4                                             |
| Beans: | 301.5                                    | x | .99    | = | 298.5                                             |
| Oats:  | 57.8                                     | x | .33    | = | 19.1                                              |
| Wheat: | 3.4                                      | x | .95    | = | 3.2                                               |
|        |                                          |   |        |   | -----                                             |
|        |                                          |   |        |   | Total Grain Sold or in Storage                    |
|        |                                          |   |        |   | 1,187.2                                           |

**ESTIMATED ANNUAL INDEMNITY FUND RECEIPTS:**

|               |                                     |
|---------------|-------------------------------------|
| 1,187,200,000 | Bushels of Grain Sold or in Storage |
| x 50.005      | Indemnity Fund Fee                  |
| -----         |                                     |
| \$ 5,936,000  |                                     |

Note: The annual production estimates used above represent seven-year averages based on annual production data from the Iowa Crop and Livestock Reporting Service. Federal farm programs may affect the amount of grain produced. The percentage sold for corn, soybeans, oats, and wheat are 'best estimates' from the Iowa Crop and Livestock Reporting Service. Grain sold or in storage includes grain stored on farms.

2. SF 2116 states that interest earned by the indemnity fund may be used to pay the administrative costs incurred. It is assumed that no interest will be generated from the indemnity fund in FY 1987. In subsequent years, the interest generated depends on the balance in the fund and the going interest rate. For FY 1986, the estimated average monthly earnings rate on the Treasurer's pooled funds is 8%. With a conservative estimate of earnings at 6% and estimated annual indemnity fund receipts of \$5,936,000, the generated interest would be \$356,160.
3. The FY 1986 budget for the Grain Warehouse Division of the Commerce Commission is assumed for current law in FY 1987 and FY 1988.
4. Additional staff and support will be required in FY 1987 and FY 1988. The additional staff include 1 Grain Dealer/Warehouse Examiner and 1 Accounting

Technician II. In FY 1987, support costs include one-time expenditures office equipment and a vehicle, in addition to the on-going costs of office supplies and travel.

FISCAL EFFECT

Assuming no interest is generated from the indemnity fund in FY 1987, costs will exceed revenue by \$71,000. In FY 1988, assuming sufficient interest is earned, the increased cost of \$55,000 will be covered by interest funds.

(dollars in thousands)

|                     | F.Y. 1987   |              |                       | F.Y. 1988   |              |                       |
|---------------------|-------------|--------------|-----------------------|-------------|--------------|-----------------------|
|                     | Current Law | Proposed Law | Increase / (Decrease) | Current Law | Proposed Law | Increase / (Decrease) |
| <u>REVENUE</u>      |             |              |                       |             |              |                       |
| General Fund        | \$ 1,047    | \$ 1,047     | \$ 0                  | \$ 1,047    | \$ 1,047     | \$ 0                  |
| Fund Interest       | 0           | 0            | 0                     | 0           | 356          | 356                   |
| TOTAL               | \$ 1,047    | \$ 1,047     | \$ 0                  | \$ 1,047    | \$ 1,403     | \$ 356                |
| <u>EXPENDITURES</u> |             |              |                       |             |              |                       |
| Salaries (FTE's)    | \$ 814      | \$ 855       | \$ 41                 | \$ 814      | \$ 855       | \$ 41                 |
| Support             | ( 34.0)     | ( 36.0)      | ( 2.0)                | ( 34.0)     | ( 36.0)      | ( 2.0)                |
| TOTAL               | 233         | 263          | 30                    | 233         | 247          | 14                    |
| TOTAL               | \$ 1,047    | \$ 1,118     | \$ 71                 | \$ 1,047    | \$ 1,102     | \$ 55                 |
| NET EFFECT          | \$ 0        | \$ (71)      | \$ (71)               | \$ 0        | \$ 301       | \$ 301                |

Filed February 6, 1986 BY HUSAK

DENNIS C. PROUTY, DIRECTOR,  
LEGISLATIVE FISCAL BUREAU

SENATE FILE 2116

S-5039

1 Amend Senate File 2116 as follows:

2 1. Page 1, line 15, by inserting after the word  
3 "facilities" the words "or equipment".

4 2. Page 8, by inserting after line 25 the  
5 following:

6 "Sec. \_\_\_\_ . NEW SECTION. 542B.1 DEFINITIONS.

7 As used in this chapter, unless the context  
8 otherwise requires:

9 1. "Commission" means the Iowa state commerce  
10 commission.

11 2. "Grain" means any grain for which the United  
12 States department of agriculture has established  
13 standards including, but not limited to, corn, wheat,  
14 oats, soybeans, rye, barley, grain sorghum, flaxseeds,  
15 sunflower seed, spelt [emmer] and field peas.

16 3. "Truck dealer" means a person who buys during  
17 any calendar month five hundred bushels of grain or  
18 more from the producers of the grain for purposes of  
19 resale, milling, or processing, and whose grain  
20 dealing facilities and equipment are not principally  
21 stationary.

22 4. "Producer" means the owner, tenant, or operator  
23 of land in this state who has an interest in and  
24 receives all or a part of proceeds from the sale of  
25 grain produced on that land.

26 5. "Credit-sale contract" means a contract for the  
27 sale of grain pursuant to which the sale price is to  
28 be paid more than thirty days after the delivery of  
29 the grain to the buyer, and includes but is not  
30 limited to those contracts commonly referred to as  
31 deferred payment contracts, deferred pricing  
32 contracts, and price-later contracts.

33 Sec. \_\_\_\_ . NEW SECTION. 542B.2 DUTIES AND POWERS  
34 OF THE COMMISSION.

35 The commission may exercise general supervision  
36 over the business operations of truck dealers. The  
37 supervisory and regulatory powers authorized by this  
38 chapter shall be the responsibility of the warehouse  
39 division of the commission. The commission may  
40 inspect or cause to be inspected any truck dealer  
41 operating in this state and may require the filing of  
42 reports pertaining to the operation of the dealer's  
43 business. The commission shall adopt rules to provide  
44 for the efficient administration and regulation of the  
45 provisions of this chapter, and may designate an  
46 employee of the commission to act for the commission  
47 in any details connected with such administration,  
48 including the issuance of licenses and approval of  
49 truck dealers' bonds in the name of the commission.

50 Sec. \_\_\_\_ . NEW SECTION. 542B.3 LICENSE REQUIRED -

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1 - FINANCIAL RESPONSIBILITY.

2 1. A person shall not engage in the business of a  
3 truck dealer in this state without having obtained a  
4 license issued by the commission.

5 2. The type of license required shall be  
6 determined as follows:

7 a. A class 1 license is required if the truck  
8 dealer purchases any grain by credit-sale contract, or  
9 if the value of grain purchased by the truck dealer  
10 from producers during the truck dealer's previous  
11 fiscal year exceeds five hundred thousand dollars.  
12 Any other truck dealer may elect to be licensed as a  
13 class 1 truck dealer.

14 b. A class 2 license is required for any truck  
15 dealer not holding a class 1 license. A class 2  
16 licensee whose purchases from producers during a  
17 fiscal year exceed a limit of five hundred thousand  
18 dollars in value shall file within thirty days of the  
19 date the limit is reached a complete application for a  
20 class 1 license. If a class 1 license is denied, the  
21 person immediately shall cease doing business as a  
22 truck dealer.

23 3. An application for a license to engage in  
24 business as a truck dealer shall be filed with the  
25 commission and shall be in a form prescribed by the  
26 commission. The application shall include the name of  
27 the applicant, its principal officers if the applicant  
28 is a corporation or the active members of a  
29 partnership if the applicant is a partnership and the  
30 location of the principal office or place of business  
31 of the applicant. A separate license shall be  
32 required for each location at which records are  
33 maintained for transactions of the truck dealer. The  
34 application shall be accompanied by a complete  
35 financial statement of the applicant setting forth the  
36 assets, liabilities and the net worth of the  
37 applicant. The financial statement must be prepared  
38 according to generally accepted accounting principles.  
39 Assets shall be shown at original cost less  
40 depreciation. Upon a written request filed with the  
41 commission, the commission or a designated employee  
42 may allow asset valuations in accordance with a  
43 competent appraisal. Unpriced contracts shall be  
44 shown as a liability and valued at the applicable  
45 current market price of grain as of the date the  
46 financial statement is prepared.

47 4. In order to receive and retain a class 1  
48 license the following conditions must be satisfied:

49 a. The truck dealer shall have and maintain a net  
50 worth of at least fifty thousand dollars, or maintain

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1 a bond in the amount of two thousand dollars for each  
2 one thousand dollars or fraction thereof of net worth  
3 deficiency. However, a person shall not be licensed  
4 as a class 1 truck dealer if the person has a net  
5 worth of less than twenty-five thousand dollars. A  
6 bond submitted for purposes of this paragraph shall be  
7 in addition to any bond otherwise required under this  
8 chapter.

9 b. The truck dealer shall submit, as required by  
10 the commission, a financial statement that is  
11 accompanied by an unqualified opinion based upon an  
12 audit performed by a certified public accountant  
13 licensed in this state. However, the commission may  
14 accept a qualification in an opinion that is  
15 unavoidable by any audit procedure that is permitted  
16 under generally accepted accounting principles. An  
17 opinion that is qualified because of a limited audit  
18 procedure or because the scope of an audit is limited  
19 shall not be accepted by the commission. The truck  
20 dealer may elect, however, to submit a financial  
21 statement satisfying the requirements of subsection 5,  
22 paragraph "b," in lieu of the audited financial  
23 statement specified in this paragraph, and if a truck  
24 dealer makes this election the commission shall cause  
25 the truck dealer to be inspected not less than twice  
26 during each twelve-month period, but not more than  
27 five times in a twenty-four month period without good  
28 cause, in the manner provided in section 542B.9.

29 c. The truck dealer shall have and maintain  
30 current assets equal to at least ninety percent of  
31 current liabilities or provide bond under the  
32 following conditions:

33 (1) A truck dealer with current assets equal to at  
34 least forty-five percent of current liabilities may  
35 provide bond of two thousand dollars for each one  
36 thousand dollars or fraction of one thousand dollars  
37 of current assets that the truck dealer is lacking to  
38 meet the minimum requirement. However, the bond shall  
39 not be used for longer than six consecutive months in  
40 a twelve-month period.

41 (2) A truck dealer with current assets equal to  
42 less than forty-five percent of current liabilities  
43 may provide bond of two thousand dollars for each one  
44 thousand dollars or fraction of one thousand dollars  
45 of current assets that the truck dealer is lacking to  
46 meet the minimum requirement. However, the bond shall  
47 not be used for longer than thirty consecutive days in  
48 a twelve-month period.

49 A bond submitted for purposes of this paragraph  
50 shall be in addition to any other bond permitted or

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1 required under this chapter.

2 5. In order to receive and retain a class 2  
3 license the following conditions must be satisfied:  
4 a. The truck dealer shall have and maintain a net  
5 worth of at least twenty-five thousand dollars, or  
6 maintain a bond in the amount of two thousand dollars  
7 for each one thousand dollars or fraction thereof of  
8 net deficiency. However, a person shall not be  
9 licensed as a class 2 truck dealer if the person has a  
10 net worth of less than ten thousand dollars. A bond  
11 submitted for purposes of this paragraph shall be in  
12 addition to any bond otherwise required under this  
13 chapter.

14 b. The truck dealer shall submit, as required by  
15 the commission, a financial statement that is  
16 accompanied by the report of a certified public  
17 accountant licensed in this state that is based upon a  
18 review performed by the certified public accountant.

19 c. The truck dealer shall have and maintain  
20 current assets equal to at least ninety percent of  
21 current liabilities or provide bond under the  
22 following conditions:

23 (1) A truck dealer with current assets equal to at  
24 least forty-five percent of current liabilities may  
25 provide bond of two thousand dollars for each one  
26 thousand dollars or fraction of one thousand dollars  
27 of current assets that the truck dealer is lacking to  
28 meet the minimum requirement. However, the bond shall  
29 not be used for longer than six consecutive months in  
30 a twelve-month period.

31 (2) A truck dealer with current assets equal to  
32 less than forty-five percent of current liabilities  
33 may provide bond of two thousand dollars for each one  
34 thousand dollars or fraction of one thousand dollars  
35 of current assets that the truck dealer is lacking to  
36 meet the minimum requirement. However, the bond shall  
37 not be used for longer than thirty consecutive days in  
38 a twelve-month period.

39 A bond submitted for purposes of this paragraph  
40 shall be in addition to any other bond permitted or  
41 required under this chapter.

42 6. The commission shall adopt rules relating to  
43 the form and time of filing of financial statements.  
44 The commission may require additional information or  
45 verification with respect to the financial resources  
46 of the applicant and the applicant's ability to pay  
47 producers for grain purchased from them.

48 7. a. When the net worth or current ratio of a  
49 licensee in good standing is less than that required  
50 by this section, the truck dealer shall correct the

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1 deficiency or file the necessary additional bond  
2 within thirty days of written notice by the  
3 commission. Unless the deficiency is corrected or the  
4 additional bond filed within thirty days, the truck  
5 dealer license shall be suspended.

6 b. If the commission finds that the welfare of  
7 grain producers requires emergency action, and  
8 incorporates a finding to that effect in its order,  
9 immediate suspension of the license may be ordered  
10 notwithstanding the thirty-day period otherwise  
11 allowed by paragraph "a" of this subsection.

12 Sec. \_\_\_\_ . NEW SECTION. 542B.4 BOND REQUIRED.

13 An applicant for a license to operate as a truck  
14 dealer shall, as a condition to the granting of the  
15 license, file with the commission a bond payable to  
16 the state of Iowa with a corporate surety approved by  
17 the commission conditioned that the applicant will pay  
18 the purchase price of any grain to the producer;  
19 provided that the aggregate liability of the surety to  
20 such persons shall in no event exceed the sum of such  
21 bond. The bond for each class 1 license shall be in  
22 the penal sum of fifty thousand dollars. The bond for  
23 each class 2 license shall be in the penal sum of  
24 twenty-five thousand dollars. One bond, cumulative as  
25 to minimum requirements, shall be required where a  
26 person has more than one license, but in no event  
27 shall the total amount of bond required by this  
28 section exceed three hundred thousand dollars for a  
29 class 1 licensee, or one hundred fifty thousand  
30 dollars for a class 2 licensee. No bond shall be  
31 canceled by a surety before at least sixty days'  
32 notice by certified mail to the commission and the  
33 truck dealer. The liability of the surety shall cover  
34 purchases made by the truck dealer during the time the  
35 bond is in force. A truck dealer's bond filed with  
36 this commission shall be in continuous force until  
37 canceled by the surety. The liability of the surety  
38 on any bond required by the provisions of this chapter  
39 shall not accumulate for each successive license  
40 period during which the bond is in force.

41 Sec. \_\_\_\_ . NEW SECTION. 542B.5 LICENSE.

42 Upon the filing of the application and compliance  
43 with the terms and conditions of this chapter and  
44 rules of the commission, the commission shall issue a  
45 license to the applicant. The license shall terminate  
46 on the thirtieth of June of each year. A truck  
47 dealer's license may be renewed annually by the filing  
48 of a renewal fee and a renewal application on a form  
49 prescribed by the commission. An application for  
50 renewal shall be received by the commission before the

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1 thirtieth of June. A truck dealer license which has  
2 terminated may be reinstated by the commission upon  
3 receipt of a proper renewal application, the renewal  
4 fee, and the reinstatement fee as provided in section  
5 542B.6 if filed within thirty days from the date of  
6 termination of the grain dealer license. The  
7 commission may cancel a license upon request of the  
8 licensee unless a complaint or information is filed  
9 against the licensee alleging a violation of a  
10 provision of this chapter.

11 If an applicant has had a license under chapter  
12 542, 542A, 542B, or 543 revoked for cause within the  
13 past three years, or has been convicted of a felony  
14 involving violations of chapter 542, 542A, 542B, or  
15 543, or is owned or controlled by a person who has had  
16 a license so revoked or who has been so convicted, the  
17 commission may deny a license to the applicant.

18 Sec. \_\_\_\_ . NEW SECTION. 542B.6 FEES.

19 The commission shall charge the following fees for  
20 deposit in the general fund:

21 1. For the issuance or renewal of a license for a  
22 truck dealer and for any inspection of a truck dealer,  
23 the fee shall be determined on the basis of dollar  
24 volume of all grain purchased the previous calendar  
25 year as follows:

26 a. If the total purchased is one hundred thousand  
27 dollars or less, the license fee is forty dollars and  
28 the inspection fee is fifty dollars.

29 b. If the total purchased is more than one hundred  
30 thousand dollars, but not more than seven hundred  
31 fifty thousand dollars, the license fee is seventy  
32 dollars and the inspection fee is seventy-five  
33 dollars.

34 c. If the total purchased is more than seven  
35 hundred fifty thousand dollars, but not more than one  
36 million five hundred thousand dollars, the license fee  
37 is one hundred dollars and the inspection fee is one  
38 hundred fifteen dollars.

39 d. If the total purchased is more than one million  
40 five hundred thousand dollars, but not more than three  
41 million dollars, the license fee is one hundred  
42 seventy-five dollars and the inspection fee is one  
43 hundred fifty dollars.

44 e. If the total purchased is more than three  
45 million dollars, but not more than four million seven  
46 hundred fifty thousand dollars, the license fee is  
47 three hundred dollars and the inspection fee is one  
48 hundred eighty-five dollars.

49 f. If the total purchased is more than four  
50 million seven hundred fifty thousand dollars, but not

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1 more than nine million five hundred thousand dollars,  
2 the license fee is four hundred twenty-five dollars  
3 and the inspection fee is two hundred twenty-five  
4 dollars.

5 g. If the total purchased is more than nine  
6 million five hundred thousand dollars, the license fee  
7 is five hundred seventy-five dollars and the  
8 inspection fee is two hundred sixty-five dollars.

9 If the applicant did not purchase grain the  
10 previous calendar year, the applicant will pay the fee  
11 specified in paragraph "a". If during the license  
12 period the total grain actually purchased exceeds one  
13 hundred thousand dollars, the licensee shall notify  
14 the commission and the license and inspection fee  
15 shall be adjusted accordingly. Subsequent adjustments  
16 shall be made as necessary. An applicant may elect  
17 licensing in any category of this subsection. New  
18 licenses issued for less than a full year shall be  
19 prorated from the date of application.

20 2. For an amendment to a license, the fee is ten  
21 dollars.

22 3. For a duplicate license, the fee is five  
23 dollars.

24 4. For reinstatement of a license the fee is fifty  
25 dollars.

26 Sec. \_\_\_\_ . NEW SECTION. 542B.7 POSTING OF  
27 LICENSE.

28 The truck dealer's license shall be posted in a  
29 conspicuous location in the place of business. A  
30 truck dealer's license is not transferable.

31 Sec. \_\_\_\_ . NEW SECTION. 542B.8 PAYMENT.

32 A person licensed as a truck dealer shall pay the  
33 purchase price to the owner or the owner's agent for  
34 grain upon delivery or demand of the owner or agent,  
35 but not later than thirty days after delivery by the  
36 owner or agent unless in accordance with the terms of  
37 a credit-sale contract that satisfies the requirements  
38 of this chapter.

39 As used in this section, "delivery" means the  
40 transfer of title to and possession of grain by the  
41 seller to the truck dealer or to another person in  
42 accordance with the agreement of the seller and the  
43 truck dealer; and "payment" means the actual payment  
44 or tender of payment by the truck dealer to the seller  
45 of the agreed purchase price, or in the case of  
46 disputes as to sales of grain, the undisputed portion  
47 of the purchase price without reduction for any  
48 separate claim of the truck dealer against the seller.

49 Sec. \_\_\_\_ . NEW SECTION. 542B.9 INSPECTION OF  
50 PREMISES, BOOKS AND RECORDS.

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1 The commission may inspect the premises used by any  
2 truck dealer in the conduct of the dealer's business  
3 at any time, and the books, accounts, records and  
4 papers of every grain dealer which pertain to grain  
5 purchases are subject to inspection by the commission  
6 during ordinary business hours. The commission shall  
7 cause the business premises and books, accounts,  
8 records and papers of every truck dealer to be  
9 inspected not less than once during each twelve-month  
10 period, but not more than three times in a twenty-four  
11 month period without good cause. However, if a class  
12 1 grain dealer elects to submit the unaudited  
13 financial statement under section 542B.3, subsection  
14 4, paragraph "b," the commission shall cause the grain  
15 dealer to be inspected not less than twice during each  
16 twelve-month period, but not more than five times in a  
17 twenty-four month period without good cause. The  
18 transporter of grain in transit shall possess bills of  
19 lading or other documents covering the grain, and  
20 shall present them to any law enforcement officer or  
21 to a person designated as an enforcement officer under  
22 section 542B.13 on demand. If there is good cause to  
23 believe that a person is engaged without a license in  
24 the business of a truck dealer in this state, the  
25 commission may inspect the books, papers, and records  
26 of the person which pertain to grain purchases.

27 If the truck dealer does not maintain a place of  
28 business in this state, inspect the business premises  
29 of the truck dealer, and the truck dealer shall submit  
30 all books, records and papers relating to grain  
31 transactions occurring within this state to the  
32 commission for purposes of an inspection required or  
33 permitted under this section at any reasonable time  
34 and place, including the offices of the commission  
35 during regular business hours, as ordered by the  
36 commission or the director of the warehouse division.

37 Sec. \_\_\_\_ . NEW SECTION. 542B.10 SUSPENSION OR  
38 REVOCAION OF LICENSE.

39 The commission may after hearing and upon  
40 information being filed with the commission by the  
41 head of the warehouse division of the commission or  
42 upon complaint filed by any person, suspend or revoke  
43 the license of any person licensed under this chapter  
44 for the violation of or failure to comply with the  
45 provisions of this chapter or any rule adopted under  
46 this chapter. An information or a verified complaint  
47 stating the grounds for suspension or revocation shall  
48 be filed with the commission in triplicate. The  
49 commission shall notify the licensee of the complaint  
50 and furnish the licensee with a copy of the

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1 information or the complaint and a copy of the order  
2 of the commission fixing the time for a hearing, which  
3 time shall be at least five days from the date of  
4 notification. If the commission determines that the  
5 public good requires immediate action, the commission  
6 may, upon the filing of the information or the  
7 complaint and without hearing, temporarily suspend a  
8 license pending the determination by it of the  
9 complaint. Judicial review of the actions of the  
10 commission may be sought in accordance with the terms  
11 of the Iowa administrative procedure Act.

12 The commission may revoke a truck dealer's license  
13 upon information without hearing if a grain dealer  
14 fails to have sufficient bond on file with the  
15 commission, or if a grain dealer fails to submit to  
16 inspection.

17 Sec. \_\_\_\_ . NEW SECTION. 542B.11 PENALTIES --  
18 INJUNCTIONS.

19 1. A person who knowingly submits false  
20 information to or knowingly withholds information from  
21 the commission or any of its employees when required  
22 to be submitted or maintained under this chapter,  
23 commits a fraudulent practice.

24 2. A person who engages in business as a truck  
25 dealer without obtaining a license, or who refuses to  
26 permit inspection of licensed premises, or books,  
27 accounts, records, or other documents required by this  
28 chapter, or who uses a scale ticket, or credit-sale  
29 contract that fails to satisfy requirements  
30 established by the commission commits a serious  
31 misdemeanor, except that a person who commits any of  
32 these offenses after having been found guilty of the  
33 same offense commits an aggravated misdemeanor.

34 3. Except as provided in subsections 1 and 2, a  
35 person who violates any provision of this chapter  
36 commits a simple misdemeanor. With respect to a  
37 continuing violation, each day that the violation  
38 continues is a separate offense.

39 4. A violation of this chapter, or a violation of  
40 chapter 714 or 715 involving the business of a truck  
41 dealer, may be restrained by an injunction in an  
42 action brought by the commerce commission.

43 Sec. \_\_\_\_ . NEW SECTION. 542B.12 CLAIMS -- NOTICE.

44 Upon revocation, termination or cancellation of a  
45 truck dealer license, any claim for the purchase price  
46 of grain against the truck dealer shall be made in  
47 writing and filed with the truck dealer and with the  
48 surety on the truck dealer bond within one hundred  
49 twenty days after revocation, termination or  
50 cancellation. Failure to make this timely claim shall

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1 relieve the surety of all obligations to the claimant.  
2 However, this section shall not be construed to reduce  
3 below the face amount of the bond then in effect the  
4 aggregate liability of the surety to other claimants.

5 Upon revocation of a truck dealer license, the  
6 commission shall cause notice of such revocation to be  
7 published once each week for two consecutive weeks in  
8 a newspaper of general circulation within the state of  
9 Iowa and in a newspaper of general circulation within  
10 the county of the truck dealer's principal place of  
11 business when that dealer's principal place of  
12 business is located in the state of Iowa. The notice  
13 shall state the name and address of the truck dealer,  
14 the effective date of revocation, and the name and  
15 address of the surety on the truck dealer bond. The  
16 notice shall also state that any claims against the  
17 truck dealer shall be made in writing and sent by  
18 ordinary mail or delivered personally within one  
19 hundred twenty days after revocation to the truck  
20 dealer and the surety on the truck dealer bond.

21 Sec. \_\_\_\_ . NEW SECTION. 542B.13 ENFORCEMENT  
22 OFFICERS.

23 The commission may designate by resolution certain  
24 of its employees in the warehouse division to be  
25 enforcement officers. Each person so designated shall  
26 have the authority of a peace officer to make arrests  
27 for violations of this chapter.

28 Sec. \_\_\_\_ . NEW SECTION. 542B.14 NO OBLIGATION OF  
29 STATE.

30 Nothing in this chapter shall be construed to imply  
31 any guarantee or obligation on the part of the state  
32 of Iowa, or any of its agencies, employees or  
33 officials, either elective or appointive, in respect  
34 to any agreement or undertaking to which the  
35 provisions of this chapter relate.

36 Sec. \_\_\_\_ . NEW SECTION. 542B.15 CREDIT-SALE  
37 CONTRACTS.

38 1. A truck dealer shall not purchase grain by a  
39 credit-sale contract except as provided in this  
40 section.

41 2. A truck dealer shall give written notice to the  
42 commission prior to engaging in the purchase of grain  
43 by credit-sale contracts. Notice shall be on forms  
44 provided by the commission. The notice shall contain  
45 information required by the commission.

46 3. All credit-sale contract forms in the  
47 possession of a truck dealer shall have been  
48 permanently and consecutively numbered at the time of  
49 printing of the forms. A truck dealer shall maintain  
50 an accurate record of all credit-sale contract forms

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and numbers obtained by that dealer. The record shall include the disposition of each numbered form, whether by execution, destruction, or otherwise.

4. A truck dealer who purchases grain by credit-sale contracts shall maintain books, records and other documents as required by the commission to establish compliance with this section.

5. In addition to other information as may be required, a credit-sale contract shall contain or provide for all of the following:

- a. The seller's name and address.
- b. The conditions of delivery.
- c. The amount and kind of grain delivered.
- d. The price per bushel or basis of value.
- e. The date payment is to be made.
- f. The duration of the credit-sale contract, which shall not exceed twelve months from the date the contract is executed.

6. Title to all grain sold by a credit-sale contract is in the purchasing dealer as of the time the contract is executed, unless the contract provides otherwise. The contract must be signed by both parties and executed in duplicate. One copy shall be retained by the truck dealer and one copy shall be delivered to the seller. Upon revocation, termination, or cancellation of a truck dealer license, the payment date for all credit-sale contracts shall be advanced to a date not later than thirty days after the effective date of the revocation, termination, or cancellation, and the purchase price for all unpriced grain shall be determined as of the effective date of revocation, termination, or cancellation in accordance with all other provisions of the contract. However, if the business of the truck dealer is sold to another licensed grain dealer, credit-sale contracts may be assigned to the purchaser of the business.

7. A truck dealer shall not purchase grain on credit during any time period in which the truck dealer's current assets are less than forty-five percent of current liabilities.

Sec. . NEW SECTION. 542B.16 CONFIDENTIALITY OF RECORDS.

Notwithstanding chapter 22, all financial statements of truck dealers under this chapter shall be kept confidential by the commission and its agents and employees and are not subject to disclosure except as follows:

1. Upon waiver by the licensee.
2. In actions or administrative proceedings

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1 commenced under this chapter or chapter 543.

2 3. When required by subpoena or court order.

3 4. Disclosure to law enforcement agencies in  
4 regard to the detection and prosecution of public  
5 offenses.

6 5. When released to a bonding company approved by  
7 the commission, or released to the United States  
8 department of agriculture or any of its divisions.

9 6. Where released at the request of the Iowa board  
10 of accountancy for licensee review and discipline in  
11 accordance with chapters 116 and 258A and subject to  
12 the confidentiality requirements of section 258A.6.

13 Sec. \_\_\_\_ . NEW SECTION. 542B.17 STANDARDIZATION  
14 OF RECORDS AND DOCUMENTS.

15 1. The commission may adopt rules specifying the  
16 form, content and use of scale tickets, and credit-  
17 sale contracts. All scale ticket forms in the  
18 possession of a truck dealer shall have been  
19 permanently and consecutively numbered at the time of  
20 printing. A truck dealer shall maintain an accurate  
21 record of all scale ticket numbers. The record shall  
22 include the disposition of each numbered form, whether  
23 issued, destroyed, or otherwise disposed of.

24 2. A licensed truck dealer shall keep complete and  
25 accurate records of all grain transactions. Records  
26 for the previous six years shall be made available for  
27 inspection by the commission.

28 Sec. \_\_\_\_ . NEW SECTION. 542B.18 SHRINKAGE  
29 ADJUSTMENTS --DISCLOSURES -- PENALTIES.

30 1. A person who, in connection with the receipt of  
31 corn or soybeans for storage, processing, or sale,  
32 adjusts the scale weight of the grain to compensate  
33 for the moisture content of the grain shall compute  
34 the amount of the adjustment by multiplying the scale  
35 weight of the grain by that factor which results in a  
36 rate of adjustment of one and eighteen hundredths  
37 percent of weight per one percent of moisture content.  
38 The use of any rate of weight adjustment for moisture  
39 content other than the one prescribed by this  
40 subsection is a fraudulent practice. The person shall  
41 post on the business premises in a conspicuous place  
42 notice of the rate of adjustment for moisture content  
43 that is prescribed by this subsection. Failure to  
44 make this disclosure is a simple misdemeanor.

45 2. A person who, in connection with the receipt of  
46 grain for storage, processing or sale, adjusts the  
47 quantity of the grain received to compensate for  
48 losses to be incurred during the handling, processing,  
49 or storage of the grain shall post on the business  
50 premises in a conspicuous place notice of the rate of

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1 adjustment to be made for this shrinkage. Failure to  
2 make the required disclosure is a simple misdemeanor.  
3 3. A person who adjusts the scale weight of corn  
4 or soybeans both for moisture content and for  
5 handling, processing, or storage losses may combine  
6 the two adjustment factors into a single factor and  
7 may use this resulting factor to compute the amount of  
8 weight adjustment in connection with storage,  
9 processing, or sale transactions, provided that the  
10 person shall post on the business premises in a  
11 conspicuous place a notice that discloses the moisture  
12 shrinkage factor prescribed by subsection 1, the  
13 handling shrinkage factor to be imposed, and the  
14 single factor that results from combining these  
15 factors. Failure to make the required disclosure is a  
16 simple misdemeanor."

S-5039 Filed February 6, 1986 BY HULTMAN, HUSAK,  
*Placed out of order 3/7 (p. 266)* FRAISE, SOORHOLTZ

SENATE FILE 2116

S-5040

- 1 Amend Senate File 2116 as follows:  
2 1. Page 1, by striking lines 1 through 16.  
3 2. Page 24, by striking lines 24 through 29.

S-5040 Filed February 6, 1986 BY COMMITTEE ON WAYS AND MEANS  
*Adopted 3/7/86 (p. 266)* PALMER, CHAIR

SENATE FILE 2116

S-5041

Amend Senate File 2116 as follows:

1. Page 21, line 18, by inserting after the word "chapter." the following: "However, if for any fiscal year after the fiscal year ending June 30, 1987 the administrative costs of this chapter exceed sixty thousand dollars, the commission shall apply to the executive council for authorization to use moneys in excess of sixty thousand dollars."

S-5041 Filed and lost February 7, 1986 BY VANDE HOEF

(p. 267)

SENATE FILE 2116

S-5049

Amend Senate File 2116 as follows:

1. Page 23, line 7, by inserting after the word "loss" the words "up to a maximum of one hundred thousand dollars".

S-5049 Filed and lost February 7, 1986 BY WALDSTEIN

(p. 267)

SENATE FILE 2116

S-5051

Amend Senate File 2116 as follows:

1. Page 1, line 16, by inserting after the word "stationary;" the words "a person providing a complete ration bulk feed service, however only that portion of the grain utilized in building complete bulk rations is exempt;".

S-5051 Filed and ruled out of order February 7, 1986

(p. 466)

BY WALDSTEIN

SENATE FILE 2116

S-5046

1 Amend Senate File 2116 as follows:

2 1. Page 15, by inserting after line 27 the  
3 following:

4 "Sec. \_\_\_\_ . Section 543.13, unnumbered paragraph 1,  
5 Code 1985, is amended by striking the paragraph."

6 2. Page 15, line 31, by striking the word  
7 "nonbulk" and inserting the words "agricultural  
8 products other than bulk".

9 3. Page 16, line 1, by striking the word  
10 "nonbulk" and inserting the words "agricultural  
11 products other than bulk".

12 4. Page 16, line 4, by striking the word  
13 "nonbulk" and inserting the words "agricultural  
14 products other than bulk".

15 5. Page 16, line 13, by striking the word  
16 "nonbulk" and inserting the words "agricultural  
17 products other than bulk".

18 6. Page 16, line 16, by striking the word  
19 "nonbulk" and inserting the words "agricultural  
20 products other than bulk".

21 7. Page 16, line 17, by striking the word  
22 "nonbulk" and inserting the words "agricultural  
23 products other than bulk".

24 8. Page 16, line 18, by striking the word  
25 "nonbulk" and inserting the words "agricultural  
26 products other than bulk".

27 9. Page 16, line 22, by striking the word  
28 "nonbulk" and inserting the words "agricultural  
29 products other than bulk".

30 10. Page 16, line 31, by striking the words  
31 "deficiency bond" and inserting the words "bond on  
32 agricultural products other than bulk grain, a  
33 deficiency bond,".

34 11. Page 16, line 33, by striking the words  
35 "deficiency bond" and inserting the words "bond on  
36 agricultural products other than bulk grain,  
37 deficiency bond,".

38 12. Page 17, line 6, by striking the words  
39 "deficiency bond" and inserting the words "bond on  
40 agricultural products other than bulk grain, a  
41 deficiency bond,".

42 13. Page 17, line 26, by striking the words  
43 "deficiency bond" and inserting the words "bond on  
44 agricultural products other than bulk grain,  
45 deficiency bond,".

46 14. Page 20, lines 33 and 34, by striking the  
47 words "and licensed warehouse operators" and inserting  
48 the words ", licensed warehouse operators, and  
49 participating federally licensed warehouses".

50 15. Page 21, line 25, by striking the word

1 "March" and inserting the word "May".

2 16. Page 22, lines 34 and 35, by striking the  
3 words "or for solicitation or negotiation for sale".

SENATE FILE 2116

S-5052

Amend Senate File 2116 as follows:

1 1. Page 1, by inserting before line 17, the  
2 following:  
3  
4 "3. "Grain dealer" means a person who buys during  
5 any calendar month five hundred bushels of grain or  
6 more from the producers of the grain for purposes of  
7 resale, milling, or processing. However, "grain  
8 dealer" does not include a producer of grain who is  
9 buying grain for the producer's own use as seed or  
10 feed; a person solely engaged in buying grain future  
11 contracts on the board of trade; a person who  
12 purchases grain only for sale in a registered feed; a  
13 person engaged in the business of selling agricultural  
14 seeds regulated by chapter 199; a person buying grain  
15 only as a farm manager; an executor, administrator,  
16 trustee, guardian, or conservator of an estate; a  
17 bargaining agent as defined in section 542A.1; a  
18 person providing a complete ration bulk feed service,  
19 however, only that portion of the grain utilized in  
20 building complete bulk rations is exempt; or a custom  
21 livestock feeder."

S-5052 Filed and withdrawn February 7, 1986 BY WALDSTEIN

(p. 269)

SENATE FILE 2116

S-5053

Amend Senate File 2116 as follows:

1 1. Page 1, by inserting before line 17, the  
2 following:  
3  
4 "Section 1. Section 542.1, subsection 3, Code  
5 Supplement 1985, is amended to read as follows:  
6 3. "Grain dealer" means a person who buys during  
7 any calendar month five hundred bushels of grain or  
8 more from the producers of the grain for purposes of  
9 resale, milling, or processing. However, "grain  
10 dealer" does not include a producer of grain who is  
11 buying grain for the producer's own use as seed or  
12 feed; a person solely engaged in buying grain future  
13 contracts on the board of trade; a person who  
14 purchases grain only for sale in a registered feed; a  
15 person engaged in the business of selling agricultural  
16 seeds regulated by chapter 199; a person buying grain  
17 only as a farm manager; an executor, administrator,  
18 trustee, guardian, or conservator of an estate; a  
19 bargaining agent as defined in section 542A.1; a  
20 person providing a complete ration bulk feed service,  
21 however, only that portion of the grain utilized in  
22 building complete bulk rations is exempt; or a custom  
23 livestock feeder."

S-5053 Filed and withdrawn February 7, 1986 BY WALDSTEIN

(p. 269)

Agriculture: Koenigs, Chair; Branstad, De Groot, Gruhn, Muhlbauer, Skow and Stueland.

SENATE FILE 2116  
BY COMMITTEE ON AGRICULTURE

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 7, 1986)

\_\_\_\_\_ - New Language by the Senate

\* - Language Stricken by the Senate

Passed Senate, Date Jan 26/86 Passed House, Date 3-27-86 (p. 1057)

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 57 Nays 38

Approved April 28, 1986 (p. 1428)  
*Transferred to reconsider (p. 1068) w/2 4/1 (1023)*

A BILL FOR

1 An Act relating to grain dealers and warehouses, by providing  
2 licensing requirements, establishing a grain depositors and  
3 sellers indemnity fund, and providing an effective date.

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

*Conference Committee Appointed*

*Representatives Koenigs (Chair), Muhlbauer, Skow, De Groot, Bellotti 4/3 (1210)  
Senators Huesch (Chair), Frazer, A. Miller, Sorensen, & Gratin 4/3 (p. 1043)*

*Conference Committee Adopted*

*Senate 4/14/86 (p. 1212)*

*Passed for Conference Committee Report*

*Senate 4-14-86 (p. 1212) House 4-15-86 (p. 1489)  
42-0 65-30*

\*1 Section 1. Section 542.1, Code Supplement 1985, is amended  
2 by adding the following new subsection:

3 NEW SUBSECTION. 7. "Seller" means a person who sells  
4 grain which the person has produced or caused to be produced  
5 to a licensed grain dealer, and includes a person who executes  
6 a credit sale contract as a seller.

7 Sec. 2. Section 542.3, subsections 4, 5, and 7, Code  
8 Supplement 1985, is amended to read as follows:

9 4. In order to receive and retain a class 1 license the  
10 following conditions must be satisfied:

11 a. The A grain dealer who does not engage in credit-sale  
12 contracts shall have and maintain a net worth of at least  
13 fifty thousand dollars, or maintain a deficiency bond or an  
14 irrevocable letter of credit in the amount of two thousand  
15 dollars for each one thousand dollars or fraction thereof of  
16 net worth deficiency. A grain dealer who does engage in  
17 credit-sales contracts shall have and maintain a net worth of  
18 at least one hundred thousand dollars, or maintain a  
19 deficiency bond or irrevocable letter of credit in the amount  
20 of two thousand dollars for each one thousand dollars or  
21 fraction thereof of net worth deficiency. However, a person  
22 shall not be licensed as a class 1 grain dealer if the person  
23 has a net worth of less than twenty-five thousand dollars. A  
24 ~~bond-submitted-for-purposes-of-this-paragraph-shall-be-in~~  
25 ~~addition-to-any-bond-otherwise-required-under-this-chapter:~~

26 b. The grain dealer shall submit, as required by the  
27 commission, a financial statement that is accompanied by an  
28 unqualified opinion based upon an audit performed by a  
29 certified public accountant licensed in this state. However,  
30 the commission may accept a qualification in an opinion that  
31 is unavoidable by any audit procedure that is permitted under  
32 generally accepted accounting principles. An opinion that is  
33 qualified because of a limited audit procedure or because the  
34 scope of an audit is limited shall not be accepted by the  
35 commission. ~~The-grain-dealer-may-elect, however, to submit a~~

1 financial-statement-satisfying-the-requirements-of-subsection  
2 5,-paragraph-"b,"-in-lieu-of-the-audited-financial-statement  
3 specified-in-this-paragraph,-and-if-a-grain-dealer-makes-this  
4 election-the-commission-shall-cause-the-grain-dealer-to-be  
5 inspected-not-less-than-twice-during-each-twelve-month-period,  
6 but-not-more-than-five-times-in-a-twenty-four-month-period  
7 without-good-cause,-in-the-manner-provided-in-section-542-9.

8 c. The A grain dealer who does not engage in credit-sale  
9 contracts shall have and maintain current assets equal to at  
10 least ninety percent of current liabilities or provide a  
11 deficiency bond or an irrevocable letter of credit under the  
12 following conditions:

13 (1) A grain dealer with current assets equal to at least  
14 forty-five percent of current liabilities may provide a  
15 deficiency bond or an irrevocable letter of credit of two  
16 thousand dollars for each one thousand dollars or fraction of  
17 one thousand dollars of current assets that the grain dealer  
18 is lacking to meet the minimum requirement. However, the bond  
19 or irrevocable letter of credit shall not be used for longer  
20 than six consecutive months in a twelve-month period.

21 (2) A grain dealer with current assets equal to less than  
22 forty-five percent of current liabilities may provide a  
23 deficiency bond or an irrevocable letter of credit of two  
24 thousand dollars for each one thousand dollars or fraction of  
25 one thousand dollars of current assets that the grain dealer  
26 is lacking to meet the minimum requirement. However, the bond  
27 or irrevocable letter of credit shall not be used for longer  
28 than thirty consecutive days in a twelve-month period.

29 d. A grain dealer who does engage in credit-sale contracts  
30 shall have and maintain current assets equal to at least one  
31 hundred percent of current liabilities or provide a deficiency  
32 bond or an irrevocable letter of credit under the following  
33 conditions:

34 (1) A grain dealer with current assets equal to at least  
35 fifty percent of current liabilities may provide a deficiency

1 bond or irrevocable letter of credit of two thousand dollars  
2 for each one thousand dollars or fraction of one thousand  
3 dollars of current assets that the grain dealer is lacking to  
4 meet the minimum requirement. The deficiency bond or  
5 irrevocable letter of credit shall not be used for longer than  
6 six consecutive months in a twelve-month period.

7 (2) A grain dealer with current assets equal to less than  
8 fifty percent of current liabilities may provide a deficiency  
9 bond or an irrevocable letter of credit of two thousand  
10 dollars for each one thousand dollars or fraction of one  
11 thousand dollars of current assets that the grain dealer is  
12 lacking to meet the net worth requirement. However, the  
13 deficiency bond or irrevocable letter of credit shall not be  
14 used for longer than thirty consecutive days in a twelve-month  
15 period.

16 ~~A bond submitted for purposes of this paragraph shall be in~~  
17 ~~addition to any other bond permitted or required under this~~  
18 ~~chapter:~~

19 5. In order to receive and retain a class 2 license the  
20 following conditions must be satisfied:

21 a. The grain dealer shall have and maintain a net worth of  
22 at least twenty-five thousand dollars, or maintain a  
23 deficiency bond or an irrevocable letter of credit in the  
24 amount of two thousand dollars for each one thousand dollars  
25 or fraction thereof of net deficiency. However, a person  
26 shall not be licensed as a class 2 grain dealer if the person  
27 has a net worth of less than ten thousand dollars. A-bond  
28 ~~submitted for purposes of this paragraph shall be in addition~~  
29 ~~to any bond otherwise required under this chapter:~~

30 b. The grain dealer shall submit, as required by the  
31 commission, a financial statement that is accompanied by the  
32 report of an unqualified opinion based upon an audit performed  
33 by a certified public accountant licensed in this state that  
34 is based upon a review performed by the certified public  
35 accountant. However, the commission may accept a

1 qualification in an opinion that is unavoidable by any audit  
2 procedure that is permitted under generally accepted  
3 accounting principles. An opinion that is qualified because  
4 of a limited audit procedure or because the scope of an audit  
5 is limited shall not be accepted by the commission.

6 c. The grain dealer shall have and maintain current assets  
7 equal to at least ninety percent of current liabilities or  
8 provide a deficiency bond or an irrevocable letter of credit  
9 under the following conditions:

10 (1) A grain dealer with current assets equal to at least  
11 forty-five percent of current liabilities may provide a  
12 deficiency bond or an irrevocable letter of credit of two  
13 thousand dollars for each one thousand dollars or fraction of  
14 one thousand dollars of current assets that the grain dealer  
15 is lacking to meet the minimum requirement. However, the bond  
16 or irrevocable letter of credit shall not be used for longer  
17 than six consecutive months in a twelve-month period.

18 (2) A grain dealer with current assets equal to less than  
19 forty-five percent of current liabilities may provide a  
20 deficiency bond or an irrevocable letter of credit of two  
21 thousand dollars for each one thousand dollars or fraction of  
22 one thousand dollars of current assets that the grain dealer  
23 is lacking to meet the minimum requirement. However, the bond  
24 or irrevocable letter of credit shall not be used for longer  
25 than thirty consecutive days in a twelve-month period.

26 ~~A bond submitted for purposes of this paragraph shall be in~~  
27 ~~addition to any other bond permitted or required under this~~  
28 ~~chapter.~~

29 7. a. When the net worth or current ratio of a licensee in  
30 good standing is less than that required by this section, the  
31 grain dealer shall correct the deficiency or file the  
32 ~~necessary additional~~ a deficiency bond or an irrevocable  
33 letter of credit within thirty days of written notice by the  
34 commission. Unless the deficiency is corrected or the  
35 ~~additional~~ deficiency bond or irrevocable letter of credit is

1 filed within thirty days, the grain dealer license shall be  
2 suspended.

3 b. If the commission finds that the welfare of grain  
4 producers requires emergency action, and incorporates a  
5 finding to that effect in its order, immediate suspension of  
6 the a license may be ordered notwithstanding the thirty-day  
7 period otherwise allowed by paragraph "a" of this subsection.

8 Sec. 3. Section 542.4, Code 1985, is amended by striking  
9 the section and inserting in lieu thereof the following:

10 542.4 PARTICIPATION IN INDEMNITY FUND REQUIRED.

11 A person licensed to operate as a grain dealer under this  
12 chapter shall participate in and comply with the grain  
13 depositors and sellers indemnity fund provided in chapter  
14 543A.

15 Sec. 4. Section 542.9, unnumbered paragraph 1, Code 1985,  
16 is amended to read as follows:

17 The commission may inspect the premises used by any grain  
18 dealer in the conduct of the dealer's business at any time,  
19 and the books, accounts, records, and papers of every grain  
20 dealer which pertain to grain purchases are subject to  
21 inspection by the commission during ordinary business hours.  
22 The commission shall cause the business premises and books,  
23 accounts, records, and papers of every grain dealer to be  
24 inspected not less than once during each twelve-month period,  
25 but not more than ~~three~~ four times in a twenty-four month  
26 period without good cause. ~~However, if a class 1 grain dealer~~  
27 ~~elects to submit the unaudited financial statement under~~  
28 ~~section 542.3, subsection 4, paragraph "b," the commission~~  
29 ~~shall cause the grain dealer to be inspected not less than~~  
30 ~~twice during each twelve-month period, but not more than five~~  
31 ~~times in a twenty-four month period without good cause.~~ The  
32 transporter of grain in transit shall possess bills of lading  
33 or other documents covering the grain, and shall present them  
34 to any law enforcement officer or to a person designated as an  
35 enforcement officer under section 542.13 on demand. If there

1 is good cause to believe that a person is engaged without a  
2 license in the business of a grain dealer in this state, the  
3 commission may inspect the books, papers, and records of the  
4 person which pertain to grain purchases.

5 Sec. 5. Section 542.10, unnumbered paragraph 2, Code 1985,  
6 is amended to read as follows:

7 The commission may revoke a grain dealer's license upon  
8 information without hearing if a grain dealer fails to have  
9 ~~sufficient-bond-on-file-with-the-commission,-or-if-a-grain~~  
10 ~~dealer-fails~~ to submit to inspection.

11 Sec. 6. Section 542.12, Code 1985, is amended to read as  
12 follows:

13 542.12 CLAIMS -- NOTICE.

14 Upon revocation, termination, or cancellation of a grain  
15 dealer license, any claim for the purchase price of grain  
16 against the grain dealer shall be made in writing and filed  
17 with the grain dealer and with the ~~surety-on-the-grain-dealer~~  
18 ~~bond issuer~~ of a deficiency bond or of an irrevocable letter  
19 of credit and with the commission within one hundred twenty  
20 days after revocation, termination, or cancellation. Failure  
21 to make this timely claim ~~shall-relieve~~ relieves the ~~surety~~  
22 issuer and the grain depositors and sellers indemnity fund  
23 provided in chapter 543A of all obligations to the claimant.  
24 ~~However,-this-section-shall-not-be-construed-to-reduce-below~~  
25 ~~the-face-amount-of-the-bond-then-in-effect-the-aggregate~~  
26 ~~liability-of-the-surety-to-other-claimants-~~

27 Upon revocation of a grain dealer license, the commission  
28 shall cause notice of such the revocation to be published once  
29 each week for two consecutive weeks in a newspaper of general  
30 circulation within the state of Iowa and in a newspaper of  
31 general circulation within the county of the grain dealer's  
32 principal place of business when that dealer's principal place  
33 of business is located in the state of Iowa. The notice shall  
34 state the name and address of the grain dealer, and the  
35 effective date of revocation, ~~and-the-name-and-address-of-the~~

1 ~~surety-on-the-grain-dealer-bond~~. The notice shall also state  
2 that any claims against the grain dealer shall be made in  
3 writing and sent by ordinary mail or delivered personally  
4 within one hundred twenty days after revocation to the grain  
5 dealer, ~~and the surety-on-the-grain-dealer-bond to the issuer~~  
6 of a deficiency bond or of an irrevocable letter of credit,  
7 and to the commission, and the notice shall state that the  
8 failure to make a timely claim does not relieve the grain  
9 dealer from liability to the claimant.

10 Sec. 7. Section 542.18, subsection 2, Code 1985, is  
11 amended to read as follows:

12 2. As a condition of the granting of a license under this  
13 section, the applicant shall file with the commission a bond  
14 payable to the state of Iowa with a corporate surety approved  
15 by the commission in a penal sum of twenty-five thousand  
16 dollars per license, conditioned that the grain seller owns or  
17 controls, free of liens, any grain offered for sale.

18 ~~Cancellation-of-bonds~~ A bond issued by a surety under this  
19 section shall meet-the-requirements-of-section-542.4 not be  
20 canceled by the surety before at least ninety days' notice by  
21 certified mail to the commission and the bonded grain seller.  
22 The liability of a surety on any bond under this section shall  
23 not accumulate for each successive license period during which  
24 the bond is in force.

25 Sec. 8. Section 542.19, subsection 2, Code 1985, is  
26 amended to read as follows:

27 2. If a co-operative agreement is in effect under this  
28 section, the bonding indemnification requirements of this  
29 chapter may be satisfied by:

30 a. Filing with the commission evidence of a bond or an  
31 irrevocable letter of credit on file with a state or of  
32 participation in an indemnity fund in a state with which Iowa  
33 has a co-operative agreement as provided for by this section.

34 b. ~~Such-bond~~ Indemnification proceeds shall be co-payable  
35 to the state of Iowa for the benefit of sellers of grain under

1 this chapter in Iowa.

2 ~~c.--The bond shall be in an amount at least equal to the~~  
3 ~~amounts required by this chapter; provided, however, that any~~  
4 ~~bond required under this chapter for any financial deficiency~~  
5 ~~shall be in addition to the bond posted in any other state;~~

6 Any bond Indemnification proceeds required by this chapter  
7 may be made co-payable to any state with whom this state has  
8 entered into contracts or agreements as authorized by this  
9 section, for the benefit of sellers of grain in that state.

10 Sec. 9. Section 543.2, Code 1985, is amended to read as  
11 follows:

12 543.2 DUTIES AND POWERS OF THE COMMISSION.

13 The commission may exercise general supervision over the  
14 storage, warehousing, classifying according to grade or  
15 otherwise, weighing, and certification of agricultural  
16 products. The commission may inspect or cause to be inspected  
17 any warehouse. Inspections may be made at times and for  
18 purposes as the commission determines. The commission shall  
19 cause every licensed warehouse and its contents to be  
20 inspected once in every twelve-month period, ~~provided that if~~  
21 ~~a class 1 warehouse operator elects to submit the unaudited~~  
22 ~~financial statement under section 543.6, subsection 4,~~  
23 ~~paragraph "b," the commission shall cause the warehouse to be~~  
24 ~~inspected twice in every twelve-month period.~~ The commission  
25 may require the filing of reports relating to a warehouse or  
26 its operation. If upon inspection a deficiency is found to  
27 exist as to the quantity or quality of agricultural products  
28 stored, as indicated on the warehouse operator's books and  
29 records according to official grain standards, the commission  
30 may require an employee of the commission to remain at the  
31 licensed warehouse and supervise all operations involving  
32 agricultural products stored there under this chapter until  
33 the deficiency is corrected. The charge for the cost of  
34 maintaining an employee of the commission at a warehouse to  
35 supervise the correction of a deficiency is one hundred fifty

1 dollars per day.

2 PARAGRAPH DIVIDED. The commission may make available to  
3 the United States government, or any of its agencies,  
4 including the commodity credit corporation, the results of  
5 inspections made and inspection reports submitted to it by  
6 employees of the commission, upon payment to it of charges as  
7 determined by the commission, but the charges shall not be  
8 less than the actual cost of services rendered, as determined  
9 by the commission. The commission may enter into contracts  
10 and agreements for such purpose and shall keep a record of all  
11 money thus received. All such money shall be paid over to the  
12 treasurer of state as miscellaneous receipts. The commission  
13 may classify any warehouse in accordance with its suitability  
14 for the storage of agricultural products and shall specify in  
15 any license issued for the operation of any a warehouse the  
16 only type or types and the quantity of agricultural products  
17 which may be exclusively stored in the warehouse. The  
18 commission may prescribe, within the limitations of this  
19 chapter, the duties of licensed warehouse operators with  
20 respect to the care of and responsibility for the contents of  
21 licensed warehouses. Grain grades shall be determined under  
22 the official grain standards. The commission may from time to  
23 time publish data in connection with the administration of  
24 this chapter as may be of public interest. The commission  
25 shall administer this chapter.

26 Sec. 10. Section 543.3, subsection 3, Code 1985, is  
27 amended to read as follows:

28 3. When a petition is filed by the commission under  
29 subsection 1 the clerk of court shall set a date for hearing  
30 on the commission's proposed plan of disposition at a time not  
31 less than ten nor more than fifteen days after the date the  
32 petition is filed. Copies of the petition, the notice of  
33 hearing, and the commission's plan of disposition shall be  
34 served upon the licensee and upon the surety-company-issuing  
35 the-licensee's issuer of a deficiency bond or of an

1 irrevocable letter of credit pursuant to section 543.6 in the  
2 manner required for service of an original notice. A delay in  
3 effecting service upon the licensee or surety-shall issuer is  
4 not be cause for denying the appointment of a receiver and  
5 shall is not be grounds for invalidating any action or  
6 proceeding in connection therewith with the appointment.

7 Sec. 11. Section 543.4, subsections 1, 2, 4, 6, and 7,  
8 Code 1985, are amended to read as follows:

9 1. When the commission is appointed as receiver under this  
10 chapter the surety-on-the issuer of a deficiency bond or of  
11 the-licensee an irrevocable letter of credit pursuant to  
12 section 543.6 shall be joined as a party defendant by the  
13 commission. If required by the court, the surety issuer shall  
14 pay the bond indemnification proceeds or so much thereof as  
15 the court finds necessary into the court, and when so paid the  
16 surety issuer shall be absolutely discharged from any further  
17 liability under the bond or irrevocable letter of credit to  
18 the extent of the payment.

19 2. When appointed as receiver under this chapter the  
20 commission is authorized to give notice in the manner  
21 specified by the court to persons holding warehouse receipts  
22 or other evidence of deposit issued by the licensee to file  
23 their claims within one hundred twenty days after the date of  
24 appointment. Failure to timely file a claim shall defeat the  
25 claim with respect to the surety-bond issuer of a deficiency  
26 bond or of an irrevocable letter of credit, grain depositors  
27 and sellers indemnity fund created in chapter 543A, and any  
28 commodities or proceeds from the sale of commodities, except  
29 to the extent of any excess commodities or proceeds of sale  
30 remaining after all timely claims are paid in full.

31 4. The plan of disposition, as approved by the court,  
32 shall provide for the distribution of the stored commodities,  
33 or the proceeds from the sale of commodities, or the proceeds  
34 from any insurance policy, or-surety deficiency bond, or-any  
35 combination-thereof or irrevocable letter of credit, less

1 expenses incurred by the commission in connection with the  
2 receivership, plus the proceeds from the grain depositors and  
3 seller's indemnity fund in a amount determined pursuant to  
4 section 543A.3 to depositors on-a-pro-rata-basis as their  
5 interests are determined. Distribution shall be without  
6 regard to any setoff, counterclaim, or storage lien or charge.

7 6. The commission ~~shall-be~~ is entitled to reimbursement  
8 out of commodities or proceeds held in receivership for all  
9 expenses incurred as court costs or in handling and disposing  
10 of stored commodities, and for all other costs directly  
11 attributable to the receivership. The right of reimbursement  
12 of the commission ~~shall-be~~ is prior to any claims against the  
13 commodities or proceeds of sales thereof of commodities, and  
14 ~~shall-constitute~~ constitutes a claim against the-surety a  
15 deficiency bond of-the-licensee or irrevocable letter of  
16 credit.

17 7. ~~In-the-event~~ If the approved plan of disposition  
18 ~~requires the-sale-of-commodities,-or-the~~ a distribution of  
19 cash proceeds ~~from-the-surety-bond,-or-both~~, the commission  
20 shall submit to the court a proposed plan of distribution of  
21 those proceeds. Upon such notice and hearing as ~~may-be~~  
22 required by the court, the court shall accept or modify the  
23 proposed plan. When the plan is approved by the court and  
24 executed by the commission, the commission shall be discharged  
25 and the receivership terminated.

26 Sec. 12. Section 543.5, unnumbered paragraph 1, Code 1985,  
27 is amended to read as follows:

28 The commission shall ~~from-time-to-time-make-such~~ adopt  
29 rules as it ~~may-deem~~ deems necessary for the efficient  
30 administration of ~~the-provisions-of~~ this chapter, and may at  
31 ~~its-discretion~~ designate an employee or officer of the  
32 commission to act for the commission in any details connected  
33 with such administration, including the issuance of licenses  
34 and approval of warehouse deficiency bonds or irrevocable  
35 letters of credit in the name of the commission, but not

1 including matters requiring a public hearing or suspension or  
2 revocation of licenses.

3 Sec. 13. Section 543.6, subsections 4 and 5, Code 1985,  
4 are amended to read as follows:

5 4. In order to receive and retain a class 1 license, the  
6 following conditions must be satisfied:

7 a. The warehouse operator shall have and maintain a net  
8 worth of at least fifty-thousand-dollars twenty cents per  
9 bushel of warehouse capacity, or maintain a deficiency bond or  
10 an irrevocable letter of credit in the amount of two thousand  
11 dollars for each one thousand dollars or fraction thereof of  
12 net worth deficiency. However, a person shall not be licensed  
13 as a class 1 warehouse operator if the person has a net worth  
14 of less than twenty-five thousand dollars. ~~A bond submitted~~  
15 ~~for purposes of this paragraph shall be in addition to any~~  
16 ~~bond otherwise required under this chapter.~~

17 b. The warehouse operator shall submit, as required by the  
18 commission, a financial statement that is accompanied by an  
19 unqualified opinion based upon an audit performed by a  
20 certified public accountant licensed in this state. However,  
21 the commission may accept a qualification in an opinion that  
22 is unavoidable by any audit procedure that is permitted under  
23 generally accepted accounting principles. An opinion that is  
24 qualified because of a limited audit procedure or because the  
25 scope of an audit is limited shall not be accepted by the  
26 commission. ~~The warehouse operator may elect, however, to~~  
27 ~~submit a financial statement satisfying the requirements of~~  
28 ~~subsection 5, paragraph "b," in lieu of the audited financial~~  
29 ~~statement specified in this paragraph, and if a warehouse~~  
30 ~~operator makes this election the commission shall cause the~~  
31 ~~warehouse operator to be inspected twice during each twelve-~~  
32 ~~month period in the manner provided in section 543.2.~~

33 5. In order to receive and maintain a class 2 license, the  
34 following conditions must be satisfied:

35 a. The warehouse operator shall have and maintain a net

1 worth of at least twenty-five-thousand-dollars twenty cents  
2 per bushel of warehouse capacity, or maintain a deficiency  
3 bond or an irrevocable letter of credit in the amount of two  
4 thousand dollars for each one thousand dollars or fraction  
5 thereof of net worth deficiency. However, a person shall not  
6 be licensed as a class 2 warehouse operator if the person has  
7 a net worth of less than ten thousand dollars. A-bond  
8 ~~submitted-for-purposes-of-this-paragraph-shall-be-in-addition~~  
9 ~~to-any-bond-otherwise-required-under-this-chapter-~~

10 b. The warehouse operator shall submit, as required by the  
11 commission, a financial statement that is accompanied by the  
12 ~~report-of~~ an unqualified opinion based upon an audit performed  
13 by a certified public accountant licensed in this state that  
14 ~~is-based-upon-a-review-performed-by-the-certified-public~~  
15 accountant. However, the commission may accept a  
16 qualification in an opinion that is unavoidable by any audit  
17 procedure that is permitted under generally accepted  
18 accounting principles. An opinion that is qualified because  
19 of a limited audit procedure or because the scope of an audit  
20 is limited shall not be accepted by the commission.

21 Sec. 14. Section 543.11, unnumbered paragraph 1, Code  
22 1985, is amended to read as follows:

23 When the commission determines that ~~a-bond-filed-under-this~~  
24 ~~chapter-and-approved-by-the-commission,-is,-or-has-become,~~  
25 ~~insufficient-to-secure-the-faithful-performance-of-the~~  
26 ~~obligations-of-the-licensed-warehouse-operator,-or-when-the~~  
27 ~~commission-determines-that~~ insurance is not fully provided as  
28 required under section 543.15, it may require the licensed  
29 warehouse operator to provide additional ~~bond-or-additional~~  
30 evidence of insurance coverage so that the ~~bond-and~~ insurance  
31 conform conforms with the requirements of this chapter. If  
32 additional insurance is not provided within five thirty days  
33 after receipt by the licensee of notice by certified mail, the  
34 license of the warehouse operator concerned shall be  
35 automatically suspended. If additional insurance is not filed

1 within another ten days, the warehouse license shall be  
2 automatically revoked. ~~If additional bond is not provided~~  
3 ~~within thirty days after receiving notice, the warehouse~~  
4 ~~license shall be suspended. If additional bond is not filed~~  
5 ~~within ten days following suspension, the warehouse license~~  
6 ~~shall be automatically revoked.~~ When a license is so revoked,  
7 the commission shall notify each holder of an outstanding  
8 warehouse receipt and all known persons who have grain  
9 retained in open storage of the revocation. The commission  
10 shall further notify each receipt holder and all known persons  
11 who have grain retained in open storage that the grain must be  
12 removed from the warehouse not later than the thirtieth day  
13 following the revocation. The notice shall be sent by  
14 ordinary mail sent to the last known address of each person  
15 having grain in storage as provided in this section.

16 Sec. 15. Section 543.11, unnumbered paragraph 2, Code  
17 1985, is amended by striking the paragraph and inserting in  
18 lieu thereof the following:

19 If the commission determines that the net worth of a  
20 licensed warehouse operator is not in compliance with the  
21 requirements of section 543.6, the commission shall issue a  
22 notice to the warehouse operator and shall suspend the  
23 warehouse operator's license if the warehouse operator does  
24 not provide evidence of compliance within sixty days of the  
25 issuance of the notice. The commission shall inspect the  
26 warehouse at the end of the sixty-day period. If evidence of  
27 compliance is not provided within ninety days of the issuance  
28 of the notice, the commission shall revoke the warehouse  
29 operator's license, and shall again inspect the warehouse. If  
30 a license is revoked, the commission shall give notice of the  
31 revocation to each holder of an outstanding warehouse receipt  
32 and to all known persons who have grain retained in open  
33 storage. The revocation notice shall state that the grain  
34 must be removed from the warehouse not later than the  
35 thirtieth day after the issuance of the revocation notice.

1 The revocation notice shall be sent by ordinary mail to the  
2 last known address of each person having grain in storage as  
3 provided in this section. The commission shall conduct a  
4 final inspection of the warehouse at the end of the thirty-day  
5 period following the issuance of the revocation notice.

6 Sec. 16. Section 543.12, Code 1985, is amended by striking  
7 the section and inserting in lieu thereof the following:

8 543.12 PARTICIPATION IN FUND REQUIRED.

9 A person licensed to operate a warehouse under this chapter  
10 shall participate in and comply with the grain depositors and  
11 sellers indemnity fund provided in chapter 543A.

12 Sec. 17. Section 543.13, unnumbered paragraph 1, Code  
13 1985, is amended by striking the paragraph.

14 Sec. 18. Section 543.13, subsections 1 and 3, Code 1985,  
15 are amended by striking the subsections and inserting in lieu  
16 thereof the following:

17 1. A bond or letter of credit on agricultural products  
18 other than bulk grain shall not be canceled by the issuer on  
19 less than one hundred twenty days' notice by certified mail to  
20 the commission and the principal.

21 3. When the commission receives notice from an issuer that  
22 it has canceled the bond or irrevocable letter on agricultural  
23 products other than bulk grain of a warehouse operator, the  
24 commission shall automatically suspend the warehouse  
25 operator's authorization to store or accept for storage  
26 agricultural products other than bulk grain if a new bond or  
27 irrevocable letter of credit is not received by the commission  
28 within sixty days of the issuance of the notice of  
29 cancellation. The commission shall conduct an inspection of  
30 the licensee's warehouse immediately at the end of the sixty  
31 day period. If a new bond or irrevocable letter of credit is  
32 not provided within ninety days of the issuance of the notice  
33 of cancellation, the commission shall revoke the warehouse  
34 operator's authorization to store or accept for storage  
35 agricultural products other than bulk grain. The commission

1 shall conduct a further inspection of the licensee's warehouse  
2 after the ninety-day period. When an authorization to store  
3 or accept for storage agricultural products other than bulk  
4 grain is revoked, the commission shall give notice of the  
5 revocation to all known persons who have agricultural products  
6 other than bulk grain in storage, and shall notify them that  
7 the agricultural products other than bulk grain must be  
8 removed from the warehouse not later than one hundred twenty  
9 days after the issuance of the notice of cancellation. The  
10 revocation notice shall be sent by ordinary mail to the last  
11 known address of each person having agricultural products  
12 other than bulk grain in storage. The commission shall cause  
13 a final inspection of the licensee's warehouse after the end  
14 of the one hundred twenty day period.

15 Sec. 19. Section 543.14, Code 1985, is amended to read as  
16 follows:

17 543.14 ACTION-ON-BOND NOTICE -- CLAIM.

18 Any A person injured by the breach of any an obligation of  
19 a warehouse operator, for the performance of which a bond on  
20 agricultural products other than bulk grain, a deficiency  
21 bond, or an irrevocable letter of credit has been given under  
22 any of the provisions of this chapter, may sue on such the  
23 bond on agricultural products other than bulk grain,  
24 deficiency bond, or irrevocable letter of credit in the  
25 person's own name in any a court of competent jurisdiction to  
26 recover any damages the person may-have has sustained by  
27 reason of such the breach.

28 Upon revocation, termination, or cancellation of a  
29 warehouse license, any a claim against the warehouse operator  
30 arising under this chapter shall be made in writing with the  
31 warehouse operator, and with the surety-on-the-warehouse  
32 issuer of a bond on agricultural products other than bulk  
33 grain, a deficiency bond, or of an irrevocable letter of  
34 credit, and with the commission within one hundred twenty days  
35 after revocation, termination, or cancellation. Failure to

1 make a timely claim ~~shall relieve~~ relieves the surety issuer  
2 and the grain depositors and sellers indemnity fund provided  
3 in chapter 543A of all obligations to the claimant, however,  
4 ~~this section shall not be construed to reduce the aggregate~~  
5 ~~liability of the surety to other claimants below the face~~  
6 ~~amount of the bond then in effect.~~ Upon revocation of a  
7 warehouse license, the commission shall cause notice of such  
8 the revocation to be published once each week for two  
9 consecutive weeks in a newspaper of general circulation in  
10 each of the counties in which the licensee maintains a  
11 business location and in a newspaper of general circulation  
12 within the state. The notice shall state the name and address  
13 of the warehouse operator, and the effective date of  
14 ~~revocation, and the name and address of the surety on the~~  
15 ~~warehouse bond.~~ The notice shall also state that any claims  
16 against the warehouse operator shall be made in writing and  
17 sent by ordinary mail to the warehouse operator, and to the  
18 surety on the warehouse bond issuer of a bond on agricultural  
19 products other than bulk grain, deficiency bond, or of an  
20 irrevocable letter of credit, and to the commission within one  
21 hundred twenty days after revocation, and the notice shall  
22 state that the failure to make a timely claim does not relieve  
23 the warehouse operator from liability to the claimant. The  
24 ~~provisions of this~~ This paragraph ~~shall~~ does not apply if a  
25 receiver is appointed as provided in this chapter pursuant to  
26 a petition which is filed by the commission prior to the  
27 expiration of one hundred twenty days after revocation,  
28 termination, or cancellation of the license.

29 Sec. 20. Section 543.15, unnumbered paragraph 1, Code  
30 1985, is amended to read as follows:

31 All agricultural products in storage in a licensed  
32 ~~warehouse, or a warehouse operated under temporary permit as~~  
33 ~~provided in this chapter,~~ and all agricultural products which  
34 have been deposited temporarily in a licensed warehouse  
35 pending storage or for purposes other than storage, shall be

1 kept fully insured by the warehouse operator for the current  
2 value of ~~such~~ the agricultural products against loss by fire,  
3 inherent explosion, or windstorm. ~~Such~~ The insurance shall be  
4 carried in an insurance company or companies authorized to do  
5 business in this state, and evidence of ~~such~~ insurance  
6 coverage in a form to be approved by the commission shall be  
7 filed with the commission. No insurance policy shall be  
8 canceled by the insurance company on less than ~~fifteen~~ sixty  
9 days' notice by certified mail to the commission and the  
10 principal unless ~~such~~ the policy is being replaced with  
11 another policy and evidence of the new policy is filed with  
12 the commission at the time of cancellation of the policy on  
13 file. ~~Such~~ The insurance shall be provided by, and carried in  
14 the name of, the warehouse operator. Claimants against ~~such~~  
15 the insurance shall have precedence in the following order:

16     Sec. 21. Section 543.17, subsection 4, Code 1985, is  
17 amended to read as follows:

18     4. All bulk grain whether open storage or having been  
19 placed on warehouse receipt shall ~~be~~ is covered by the  
20 ~~warehouse-operator's-bond-as-required-under-the-provisions-of~~  
21 ~~this-chapter~~ grain depositors and sellers indemnity fund  
22 created in chapter 543A.

23     Sec. 22. Section 543.34, Code 1985, is amended to read as  
24 follows:

25     543.34 ~~USE-OF-TERM-"BONDED-WAREHOUSE"~~ DISPLAY OF LICENSE.  
26     ~~Upon-the-filing,-with-the-approval-by-the-commission,-of-a~~  
27 ~~bond,-in-compliance-with-this-chapter,-for-the-conduct-of-a~~  
28 ~~warehouse,-such-warehouse-may-be-designated-as-"bonded"-but-no~~  
29 ~~warehouse-shall-be-designated-as-"bonded"-and-no-name-or~~  
30 ~~description-conveying-the-impression-that-it-is-so-bonded,~~  
31 ~~shall-be-used,-unless-a-bond,-as-provided-for-in-section~~  
32 ~~543.13,-has-been-approved-by-the-commission-and-is-uncanceled~~  
33 ~~and-on-file-with-the-commission,-nor-unless-the-license-issued~~  
34 ~~under-this-chapter-for-the-conduct-of-such-warehouse-remains~~  
35 ~~in-effect.~~ Every warehouse operator's license issued under

1 ~~the provisions of~~ this chapter shall be conspicuously  
2 displayed in the office of the warehouse for the operation of  
3 which the license has been issued.

4 Sec. 23. Section 543.39, subsection 2, Code 1985, is  
5 amended to read as follows:

6 2. ~~At such time as~~ When the warehouse operator ~~may begin~~  
7 begins to use the additional facilities described in this  
8 section, the operator must ~~furnish additional bond acceptable~~  
9 ~~to the commission~~ have sufficient net worth under 543.6 or  
10 provide a deficiency bond or an irrevocable letter of credit  
11 to cover the increase in the operator's gross capacity.

12 Sec. 24. NEW SECTION. 543A.1 DEFINITIONS.

13 1. "Commission" means the Iowa state commerce commission.

14 2. "Depositor" means a person who deposits grain in a  
15 warehouse for storage, handling, or shipment, or who is the  
16 owner or legal holder of an outstanding warehouse receipt, or  
17 who is lawfully entitled to possession of the grain.

18 3. "Fund" means the grain depositors and sellers  
19 indemnification fund created in section 543A.3.

20 4. "Grain" means wheat, corn, oats, barley, rye, flaxseed,  
21 field peas, soybeans, grain sorghums, spelt, and similar  
22 agricultural products, as defined in the Grain Standards Act,  
23 which are not contained in sacks.

24 5. "Licensed grain dealer" means a person who has obtained  
25 a license to engage in the business of a grain dealer pursuant  
26 to section 542.3.

27 6. "Licensed warehouse operator" means the same as in  
28 section 543.1.

29 7. "Seller" means a person who sells grain which the  
30 person has produced or caused to be produced to a licensed  
31 grain dealer, and includes a person who executes a credit sale  
32 contract as a seller.

33 Sec. 25. NEW SECTION. 543A.2 PERSONS PARTICIPATING IN  
34 FUND.

35 All licensed grain dealers and licensed warehouse operators

1 shall participate in the fund. In addition, a grain warehouse  
2 licensed under the United States Warehouse Act, 7 U.S.C. 241,  
3 may participate in the fund and be subject to this chapter if  
4 a cooperative agreement exists both between the federal agency  
5 and the commission and between the federal licensee and the  
6 commission. The agreement between the commission and the  
7 federal licensee shall be ratified each year the federal  
8 licensee elects to participate in the fund. A participating  
9 federally licensed grain warehouse shall meet the minimum net  
10 worth requirements of section 543.6.

11 Sec. 26. NEW SECTION. 543A.3 GRAIN DEPOSITORS AND  
12 SELLERS INDEMNITY FUND.

13 1. The grain depositors and sellers indemnity fund is  
14 created in the state treasury. The general fund of the state  
15 is not liable for claims presented against the grain  
16 depositors and sellers indemnity fund under section 543A.4.  
17 The fund consists of a per-bushel fee remitted by licensed  
18 grain dealers, licensed warehouse operators, and participating  
19 federally licensed grain warehouses under this section, sums  
20 collected by the commission by legal action on behalf of the  
21 fund, and property or securities acquired through the use of  
22 moneys in the fund. The moneys collected under this section  
23 and deposited in the fund shall be used exclusively to  
24 indemnify depositors and sellers as provided in section  
25 543A.5.

26 2. All licensed grain dealers, licensed warehouse  
27 operators, and participating federally licensed warehouses  
28 shall remit the fee determined by the commission in accordance  
29 with section 543A.4 on:

30 a. All grain delivered to them by depositors or sellers  
31 for storage, sale, or exchange.

32 b. All grain that is being stored by licensed warehouse  
33 operators or participating federally licensed grain warehouses  
34 who own the grain solely, jointly, or in common with others  
35 and who are issuing a receipt for the grain.

1 3. All licensed grain dealers, licensed warehouse  
2 operators, and participating federally licensed grain  
3 warehouses shall account for and remit moneys under subsection  
4 2 to the commission in the manner and using the forms  
5 prescribed by the commission.

6 4. All disbursements from the fund shall be paid by the  
7 treasurer of state pursuant to vouchers authorized by the  
8 commission.

9 5. All interest earned by the fees collected under this  
10 section shall be collected by the treasurer of state and  
11 deposited in the fund and may be used to the extent necessary  
12 to pay the administrative costs of this chapter.

13 Sec. 27. NEW SECTION. 543A.4 ADJUSTMENTS TO FEE.

14 1. The commission shall review annually the debits of and  
15 credits to the grain depositors and sellers indemnity fund  
16 created in section 543A.3 and shall make any adjustments in  
17 the fee required under that section that are necessary to  
18 maintain the fund within the limits established under this  
19 section. Not later than the first day of May of each year,  
20 the commission shall determine the proposed amount of the fee  
21 based on the expected volume of grain on which the fee is to  
22 be collected and that is likely to be handled under this  
23 chapter. The commission shall make any changes in the  
24 previous year's fee in accordance with chapter 17A. The fee  
25 shall become effective on the following first day of July.  
26 The fee shall not exceed one half of one cent per bushel on  
27 all grain on which the fee is to be paid. Until adjusted or  
28 waived by the commission pursuant to this section, the fee  
29 shall be one-half cent per bushel.

30 2. If, at the end of any fiscal year, the assets of the  
31 fund exceed eight million dollars, less any encumbered  
32 balances or pending or unsettled claims, the fee required  
33 under section 543A.3, subsection 2, shall be waived. However,  
34 the commission shall reinstate the fee if the assets of the  
35 fund, less any unencumbered balances or pending or unsettled

1 claims, are six million dollars or less.

2 Sec. 28. NEW SECTION. 543A.5 CLAIMS AGAINST FUND.

3 1. When a depositor or seller has made a demand for  
4 settlement of an obligation concerning grain on which a fee  
5 was required to be remitted under section 543A.3 and the  
6 licensed grain dealer or licensed warehouse operator has  
7 failed to honor the demand, the depositor or seller, after  
8 providing the commission with evidence of the demand and the  
9 dishonoring of the demand, may file a claim with the com-  
10 mission for indemnification of damages from the grain  
11 depositors and sellers indemnity fund to be measured as  
12 follows:

13 a. The commission shall establish the dollar value of the  
14 loss incurred by a depositor holding a warehouse receipt or a  
15 scale weight ticket for grain that the depositor delivered to  
16 the licensed warehouse operator, and by a seller who has  
17 delivered grain sold on a credit-sale contract to a licensed  
18 grain dealer. The value shall be based on the average fair  
19 market price being paid to producers by the three licensed  
20 grain dealers nearest the warehouse operator or grain dealer  
21 for the grain on the earlier of the date of license suspension  
22 or the date on which the commission received notice that the  
23 receipt, scale weight ticket, or credit-sale contract was  
24 dishonored by the licensed warehouse operator or licensed  
25 grain dealer. All depositors filing claims under this section  
26 shall be bound by the value determined by the commission.

27 b. The dollar value of the loss incurred by a seller who  
\* 28 has sold grain or delivered grain for sale or exchange and who  
29 is a creditor of the licensed grain dealer for all or part of  
30 the value of the grain shall be based on the amount stated on  
31 the obligation on the date of the sale.

32 2. The grain depositors and sellers indemnity fund is  
33 liable to a depositor or seller for moneys that the depositor  
34 or seller has not recovered through other legal and equitable  
35 remedies for eighty percent of the loss, as determined under

1 subsection 1. The aggregate amount recovered by a depositor  
2 or seller under all remedies shall not exceed eighty percent  
3 of the value of the loss. If the moneys recovered by a  
4 depositor or seller under all remedies exceed eighty percent  
5 of the value of the loss, the depositor or seller shall  
6 reimburse the fund in the amount that exceeds eighty percent  
7 of the value of the loss.

8 3. The commission shall determine the validity of all  
9 claims presented against the fund. A claim filed under this  
10 section for losses on grain other than grain stored in a  
11 warehouse operated by a licensed warehouse operator is not  
12 valid unless the seller has made a demand for settlement of  
13 the obligation within twelve months after the grain is priced  
14 or delivered for sale, whichever occurs later except that if  
15 the notice provided in section 542.12 has been given, the  
16 seller must make the demand for settlement of the obligation  
17 within the one hundred twenty day period. A depositor or  
18 seller whose claim has been refused by the commission may  
19 appeal the refusal to either the district court of Polk county  
20 or the district court of the county in which the depositor or  
21 seller resides. The commission shall provide for payment from  
22 the fund to a depositor or seller whose claim has been found  
23 to be valid.

24 4. If at any time the fund does not contain sufficient  
25 assets to pay valid claims, the commission shall hold those  
26 claims for payment until the fund again contains sufficient  
27 assets. Claims against the fund shall be paid in the order in  
28 which they are found to be valid. However, no claims shall be  
29 paid before the fund initially reaches one million dollars.

30 5. If a depositor or seller files an action for legal or  
31 equitable remedies in a state or federal court having  
32 jurisdiction in those matters that includes a claim against  
33 grain upon which the depositor or seller may file a claim  
34 against the fund at a later date, the depositor or seller  
35 shall also file with the commission a copy of the action filed

1 with the court. In the event of payment of a loss under this  
2 section, the commission shall be subrogated to the extent of  
3 the amount of any payments to all rights, powers, privileges,  
4 and remedies of the depositor or seller against any person  
5 regarding the loss. The depositor or seller shall render all  
6 necessary assistance to aid the commission in securing the  
7 rights granted in this section. No action or claim initiated  
8 by a depositor or seller and pending at the time of payment  
9 from the fund shall be compromised or settled without the  
10 consent of the commission.

11 Sec. 29. NEW SECTION. 543A.6 NO OBLIGATION OF STATE.

12 This chapter does not imply any guarantee or obligation on  
13 the part of the state of Iowa, or any of its agencies,  
14 employees, or officials, either elective or appointive, in  
15 respect of any agreement or undertaking to which this chapter  
16 relates.

\* 17 Sec. 30. Licensed grain dealers and licensed warehouse  
18 operators shall maintain a bond in an amount as required by  
19 the law in effect on January 1, 1986, or an irrevocable letter  
20 of credit in the amount of the bond, until the grain dealer or  
21 warehouse operator has qualified for a license under the  
22 license requirements specified in this Act. The license of a  
23 grain dealer or warehouse operator who has received notice of  
24 the cancellation of the required bond shall not be revoked if  
25 prior to revocation, the licensee satisfies the license  
26 requirements of this Act or, if the licensee is in compliance  
27 with the license requirements in effect on January 1, 1986,  
28 the licensee provides an irrevocable letter of credit in the  
29 amount of the bond to the commission. However, all licensed  
30 grain dealers and licensed warehouse operators shall satisfy  
31 the license requirements of this Act on or by June 30, 1986.  
32 Failure to meet the requirements by that date shall result in  
33 the revocation or nonrenewal of their license.

34 Sec. 31. Notwithstanding the provisions of section 543A.5,  
35 the indemnity fund is liable for claims which arise after the

1 effective date of this Act but before July 1, 1986 only if the  
2 claim is against a licensed grain dealer or licensed warehouse  
3 operation who has complied with section 30 of this Act by  
4 maintaining the bond or irrevocable letter of credit, by  
5 qualifying for a license under the requirements imposed by  
6 this Act, or by providing the irrevocable letter of credit and  
7 meeting the January 1, 1986 license requirements. For claims  
8 arising on or after July 1, 1986, the indemnity fund is liable  
9 for claims against grain dealers or warehouse operators who  
10 have satisfied the licensing requirements of this Act or  
11 against a participating federally licensed grain warehouse who  
12 has satisfied 543A.2.

13 Sec. 32. This Act, being deemed of immediate importance,  
14 takes effect from and after its publication in the  
15 Marshalltown Times-Republican, a newspaper published in  
16 Marshalltown, Iowa, and in The Belle Plaine Union, a newspaper  
17 published in Belle Plaine, Iowa.

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SENATE FILE 2116

H-5166

1 Amend Senate File 2116 as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting before line 1 the  
4 following:

5 "Section 1. Section 542.1, subsection 3, Code  
6 Supplement 1985, is amended to read as follows:

7 3. "Grain dealer" means a person who buys during  
8 any calendar month five hundred bushels of grain or  
9 more from the producers of the grain for purposes of  
10 resale, milling, or processing. However, "grain  
11 dealer" does not include a producer of grain who is  
12 buying grain for the producer's own use as seed or  
13 feed; a person solely engaged in buying grain future  
14 contracts on the board of trade; a person who  
15 purchases grain only for sale in a registered feed; a  
16 person who purchases grain for sale in a nonregistered  
17 customer-formula feed regulated by chapter 198, who  
18 purchases less than a total of fifty thousand bushels  
19 of grain annually, and who is also exempt as an  
20 incidental warehouse operator under chapter 543; a  
21 person engaged in the business of selling agricultural  
22 seeds regulated by chapter 199; a person buying grain  
23 only as a farm manager; an executor, administrator,  
24 trustee, guardian, or conservator of an estate; a  
25 bargaining agent as defined in section 542A.1; or a  
26 custom livestock feeder."

27 2. Page 1, by striking lines 11 and 12, and  
28 inserting the following:

29 "a. The grain dealer shall have and maintain a net  
30 worth of at least".

31 3. Page 1, by striking lines 16 through 21, and  
32 inserting the following: "net worth deficiency.  
33 However a person".

34 4. Page 2, by striking lines 8 and 9, and  
35 inserting the following:

36 "c. The grain dealer shall have and maintain  
37 current assets equal to at".

38 5. By striking page 2, line 29, through page 3,  
39 line 15.

40 6. Page 8, by inserting after line 9 the  
41 following:

42 "Sec. \_\_\_\_ . Section 543.1, subsection 8, Code 1985,  
43 is amended to read as follows:

44 8. "Warehouse operator" means any a person engaged  
45 in the business of operating or controlling a  
46 warehouse for the storing, shipping, handling or  
47 processing of agricultural products, but does not  
48 include an incidental warehouse operator.

49 Sec. \_\_\_\_ . Section 543.1, Code 1985, is amended by  
50 adding the following new subsection:

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1 NEW SUBSECTION. 23. "Incidental warehouse  
2 operator" means a person regulated under chapter 198  
3 whose grain storage capacity does not exceed twenty-  
4 five thousand bushels which is used exclusively for  
5 grain owned or grain which will be returned to the  
6 depositor for use in a feeding operation or as an  
7 ingredient in a customer-formula feed, as defined in  
8 section 198.1."

9 7. Page 19, by inserting after line 12 the  
10 following:

11 "1. "Board" means the grain depositors and sellers  
12 indemnity fund advisory board created in section  
13 543A.4."

14 8. Page 19, by inserting after line 17 the  
15 following:

16 "2A. "First purchaser" means a person, public or  
17 private corporation, governmental subdivision,  
18 association, co-operative, partnership, commercial  
19 buyer, dealer, or processor who purchases grain from a  
20 producer for the first time for any purpose except to  
21 feed it to the purchaser's livestock or to manufacture  
22 a product from the grain purchased for the purchaser's  
23 personal consumption."

24 9. Page 19, by inserting after line 28 the  
25 following:

26 "6A. "Sale" or "purchase" includes but is not  
27 limited to the pledge or other encumbrance of grain as  
28 security for a loan extended under a federal price  
29 support loan program. Actual delivery of the grain  
30 occurs when the grain is pledged or otherwise  
31 encumbered to secure the loan. The purchase price of  
32 the grain is the principal amount of the loan extended  
33 and the purchase invoice for the grain is the  
34 documentation required for extension of the loan."

35 10. By striking page 20, line 16 through page 21,  
36 line 12 and inserting the following: "depositors and  
37 sellers indemnity fund under section 543A.6. The fund  
38 consists of a per-bushel fee deducted from the  
39 purchase price of grain at the time of sale, an annual  
40 fee charged to and remitted by licensed grain dealers,  
41 licensed warehouse operators, and participating  
42 federally licensed grain warehouses under this  
43 section, sums collected by the commission by legal  
44 action on behalf of the fund, and property or  
45 securities acquired through the use of moneys in the  
46 fund. The moneys collected under this section and  
47 deposited in the fund shall be used exclusively to  
48 indemnify depositors and sellers as provided in  
49 section 543A.6.

50 2. The per-bushel fee shall be deducted by the

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1 first purchaser from the purchase price of grain at  
2 the time of sale. The first purchaser shall forward  
3 the per-bushel fee to the commission in the manner and  
4 using the forms prescribed by the commission. If the  
5 per-bushel fee has not been forwarded to the  
6 commission by the date required by the commission, the  
7 first purchaser is subject to a late penalty of one  
8 hundred dollars per day for each day the first  
9 purchaser fails to forward the fee. It is a simple  
10 misdemeanor for a person to withhold the per-bushel  
11 fee for more than sixty days after the date required  
12 by the commission, and it is a simple misdemeanor for  
13 a person to willfully render or furnish a false or  
14 fraudulent report, statement, or record required by  
15 the commission. The first purchaser will show the  
16 total amount of the per-bushel fee on the purchase  
17 invoice. The per-bushel fee shall be collected only  
18 once on each bushel of grain.

19 3. a. All licensed grain dealers, licensed  
20 warehouse operators, and participating federally  
21 licensed grain warehouses shall annually remit a fee  
22 to be deposited into the fund which is determined as  
23 follows:

24 (1) For class 1 grain dealers, five hundred  
25 dollars.

26 (2) For class 2 grain dealers, two hundred fifty  
27 dollars.

28 (3) For warehouse operators or participating  
29 federally licensed grain warehouses:

30 (a) For intended storage of bulk grain in any  
31 quantity less than twenty thousand bushels, forty-two  
32 dollars plus seven dollars for each two thousand  
33 bushels or fraction thereof in excess of twelve  
34 thousand bushels.

35 (b) For intended storage of bulk grain in any  
36 quantity not less than twenty thousand bushels and not  
37 more than fifty thousand bushels, seventy dollars plus  
38 four and a half dollars for each three thousand  
39 bushels or fraction thereof in excess of twenty  
40 thousand bushels.

41 (c) For intended storage of bulk grain in any  
42 quantity not less than fifty thousand bushels and not  
43 more than seventy thousand bushels, one hundred  
44 fifteen dollars plus four and a half dollars for each  
45 four thousand bushels or fraction thereof in excess of  
46 fifty thousand bushels.

47 (d) For intended storage of bulk grain in any  
48 quantity not less than seventy thousand bushels, one  
49 hundred thirty-seven and a half dollars plus two and  
three-quarters dollars for each five thousand bushels

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1 or fraction thereof in excess of seventy thousand  
2 bushels.

3 b. Payment of the required amount shall be made  
4 before the grain dealer's or warehouse operator's  
5 license is renewed, or before the participating  
6 federal licensee's agreement with the commission is  
7 ratified.

8 4. For one year after the effective date of this  
9 Act, all licensed grain dealers, licensed warehouse  
10 operators, and participating federally licensed grain  
11 warehouses shall pay a fee equal to twice the fee  
12 scheduled pursuant to subsection 3. A person who  
13 applies for a grain dealer's or warehouse operator's  
14 license or a federal licensee who elects to  
15 participate in the fund after one year from the  
16 effective date of this Act, and who has not previously  
17 paid the double fee, shall pay that amount before the  
18 license is issued or the agreement is ratified.

19 5. All disbursements from the fund shall be paid  
20 by the treasurer of state pursuant to vouchers  
21 authorized by the commission.

22 6. All interest earned by the fees collected under  
23 this section shall be collected by the treasurer of  
24 state and deposited in the fund and may be used to the  
25 extent necessary to pay the administrative costs of  
26 this chapter.

27 Sec. 27. NEW SECTION. 543A.4 ADVISORY BOARD.

28 The grain depositors and sellers indemnity fund  
29 advisory board is established to advise the commission  
30 on matters relating to the fund and to perform the  
31 duties provided it in this chapter. The board is  
32 composed of the secretary of the department of  
33 agriculture or a designee who shall serve as  
34 president; the director of the department of insurance  
35 or a designee who shall serve as secretary; the state  
36 treasurer or a designee who shall serve as treasurer;  
37 and two representatives of the grain industry  
38 appointed by the governor, subject to confirmation by  
39 the senate, selected from a list of six nominations  
40 made by the secretary of agriculture. The term of  
41 membership of the grain industry representatives is  
42 three years, and the representatives are eligible for  
43 reappointment. The grain industry representatives are  
44 entitled to forty dollars per diem for each day spent  
45 in the performance of the duties of the board, plus  
46 actual expenses incurred in the performance of those  
47 duties. Three members of the board constitute a  
48 quorum, and the affirmative vote of three members is  
49 necessary for any action taken by the board, except  
50 that a lesser number may adjourn a meeting. A vacancy

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1 in the membership of the board does not impair the  
2 rights of a quorum to exercise all the rights and  
3 perform all the duties of the board."

4 11. Page 21, line 13, by striking the figure  
5 "543A.4" and inserting the figure "543A.5".

6 12. Page 21, line 14, by striking the word  
7 "commission" and inserting the word "board".

8 13. Page 21, by striking lines 17 through 29 and  
9 inserting the following: "the per-bushel fee required  
10 under section 543A.3, subsection 2, and the dealer-  
11 warehouse fee required under section 543A.3,  
12 subsection 3 that are necessary to maintain the fund  
13 within the limits established under this section. Not  
14 later than the first day of May of each year, the  
15 board shall determine the proposed amount of the per-  
16 bushel fee based on the expected volume of grain on  
17 which the fee is to be collected and that is likely to  
18 be handled under this chapter. The per-bushel fee and  
19 the dealer-warehouse fee shall be adjusted on a pro  
20 rata basis. The board shall make any changes in the  
21 previous year's fees in accordance with chapter 17A.  
22 Changes in the fees shall become effective on the  
23 following first day of July. The per-bushel fee shall  
24 not exceed one-half cent per bushel on soybeans and  
25 one-quarter cent per bushel on all other grains on  
26 which the fee is to be paid. Until the per-bushel fee  
27 is adjusted or waived as provided in this section, the  
28 per-bushel fee on soybeans is one-half cent, and is  
29 one-quarter cent on all other grains on which the fee  
30 is paid."

31 14. Page 21, line 32, by inserting before the  
32 word "fee" the word "per-bushel".

33 15. By striking page 21, line 33, through page  
34 22, line 1, and inserting the following: "under  
35 section 543A.3, subsection 2, and the dealer-warehouse  
36 fee required under section 543A.3, subsection 3, shall  
37 be waived until the board reinstates the fees on a pro  
38 rata basis to maintain the liquidity of the fund."

39 16. Page 22, line 2, by striking the figure  
40 "543A.5" and inserting the figure "543A.6".

41 17. Page 22, line 26, by striking the word  
42 "commission" and inserting the word "board".

43 18. Page 22, line 33, by striking the word  
44 "moneys" and inserting the following: "a loss  
45 incurred on or after July 1, 1986".

46 19. By striking page 22, line 35, through page  
47 23, line 7, and inserting the following: "remedies as  
48 follows:

49 a. For claims against a person who is both a li-  
censed grain dealer and either a licensed warehouse

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1 operator or a participating federally licensed grain  
2 warehouse, one hundred percent of the loss, but not  
3 more than one hundred thousand dollars per claimant,  
4 except that a claim based on a loss under a credit  
5 sale contract is payable only as provided in paragraph  
6 "c".

556 7 b. For claims against a person who is either a li-  
8 censed warehouse operator or a participating federally  
9 licensed grain warehouse, one hundred percent of the  
10 loss, but not more than one hundred thousand dollars  
11 per claimant.

600 12 c. For claims against a person who is a licensed  
13 grain dealer and all claims based on a loss under a  
14 credit-sale contract, eighty-five percent of the loss,  
15 but not more than eighty-five thousand dollars.

16 The aggregate amount recovered by a depositor or  
17 seller under all remedies shall not exceed one hundred  
18 percent of the value of the loss. If the moneys  
19 recovered by a depositor or seller under all remedies  
20 exceed one hundred percent of the value of the loss,  
21 the depositor or seller shall reimburse the fund in  
22 the amount that exceeds the value of the loss."

23 20. Page 23, line 8, by striking the word  
24 "commission" and inserting the word "board".

25 21. Page 23, line 18, by striking the word  
26 "commission" and inserting the word "board".

27 22. Page 23, lines 28 and 29, by striking the  
28 words "However, no claims shall be paid before the  
29 fund initially reaches one million dollars."

30 23. Page 24, line 11, by striking the figure  
31 "543A.6" and inserting the figure "543A.7".

32 24. Page 24, line 31, by striking the word "June"  
33 and inserting the word "September".

34 25. By striking page 24, line 35, through page  
35 25, line 1, and inserting the following: "the  
36 indemnity fund is liable for claims which arise on or  
37 after July 1, 1986 but before October 1, 1986 only if  
38 the".

39 26. Page 25, line 8, by striking the word "June"  
40 and inserting the word "October".

5459 41 27. Page 25, by striking lines 13 through 17 and  
545 42 inserting the following:

43 "Sec. \_\_\_\_\_. The amendments in this Act to section  
44 542.3, subsection 4, paragraph "b"; section 542.3,  
45 subsection 5, paragraph "b"; section 542.9, unnumbered  
46 paragraph 1; section 543.2; section 543.6, subsection  
47 4, paragraph "b"; and section 543.6, subsection 5,  
48 paragraph "b" are effective July 1, 1987."

H-5166 FILED FEBRUARY 25, 1986 BY COMMITTEE ON AGRICULTURE

*Adopted as amended by 5227B,  
5323, 5449, 5494B+C, 5529,  
5561A,C,E. 3/27 (p. 1057)*

## SENATE FILE 2116

H-5166

## FISCAL NOTE

REQUESTED BY REPRESENTATIVE KOENIGS

In compliance with a written request received February 27, 1986, a fiscal note for HOUSE AMENDMENT 5166 TO SENATE FILE 2116 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

HOUSE AMENDMENT 5166 TO SENATE FILE 2116 changes the fee on grain sold from one-half cent per bushel for all grains to one-half cent per bushel on soybeans and one-quarter cent per bushel on other grains. The amendment also imposes fees, to be deposited in the indemnity fund, on grain dealers and licensed grain warehouses. The annual fee required of grain dealers is \$500 for Class I licensees and \$250 for Class II licensees. The fee schedule for licensed grain warehouses is based upon storage capacity. In the first year, grain dealers and licensed warehouses must pay an amount equivalent to double the normal fee that would be required. A five member advisory board is also established.

ASSUMPTIONS

## 1. Estimated Annual Indemnity Fund Receipts:

|                                     | In First<br>Year | In Subsequent<br>Years |
|-------------------------------------|------------------|------------------------|
| Fee receipts on grain sold          | \$3,714,200.0    | \$3,714,200.0          |
| Fee receipts on grain dealers       | 1,015,500.0      | 507,750.0              |
| Fee receipts on licensed warehouses | <u>597,481.5</u> | <u>298,740.7</u>       |
| TOTAL                               | \$5,327,181.5    | \$4,520,690.7          |

NOTE: The estimates for receipts on grain sold are derived from seven-year averages of annual production and estimates of percentage sold obtained from the Iowa Crop and Livestock Reporting Service. It was not possible to account for the amount of grain in storage that would not be subject to a fee under this bill until time of sale. The estimates for fee receipts from grain dealers and licensed warehouses were calculated by the Commerce Commission.

- The bill states that interest earned by the indemnity fund may be used to pay the administrative costs incurred. The amount of interest generated from the indemnity fund in FY 1987 can not be estimated. In subsequent years, the interest generated depends on the balance in the fund and the going interest rate. For FY 1986, the estimated average monthly earnings rate on the Treasurer's pooled funds is 8%. With a conservative estimate of earnings at 6% and assuming annual indemnity fund receipts of \$4,520,691, the generated interest would be \$271,241.
- The FY 1986 budget for the Grain Warehouse Division of the Commerce Commission is assumed for current law in FY 1987 and FY 1988.
- Additional staff and support will be required in FY 1987 and FY 1988. The additional staff include 3 Grain Dealer/Warehouse Examiners and 2 Accounting Technicians. In FY 1987, support costs include one-time expenditures for office equipment and vehicles, in addition to the on-going costs of office supplies and travel.

FISCAL EFFECT

The Commerce Commission estimates that administrative costs will total \$182,000 in FY 1987. The amount of interest generated from the indemnity fund to cover these costs can not be

estimated. In FY 1988, assuming sufficient interest is earned, the increased cost of \$148,000 will be covered by interest funds.

(dollars in thousands)

|                     | F.Y. 1987       |                 |                       | F.Y. 1988       |                 |                       |
|---------------------|-----------------|-----------------|-----------------------|-----------------|-----------------|-----------------------|
|                     | Current Law     | Proposed Law    | Increase / (Decrease) | Current Law     | Proposed Law    | Increase / (Decrease) |
| <b>REVENUE</b>      |                 |                 |                       |                 |                 |                       |
| General Fund        | \$ 1,047        | \$ 1,047        | \$ 0                  | \$ 1,047        | \$ 1,047        | \$ 0                  |
| Fund Interest       | 0               | 0               | 0                     | 0               | 271             | 271                   |
| <b>TOTAL</b>        | <b>\$ 1,047</b> | <b>\$ 1,047</b> | <b>\$ 0</b>           | <b>\$ 1,047</b> | <b>\$ 1,318</b> | <b>\$ 271</b>         |
| <b>EXPENDITURES</b> |                 |                 |                       |                 |                 |                       |
| Salaries (FTE's)    | \$ 814 ( 34.0)  | \$ 918 ( 39.0)  | \$ 104 ( 5.0)         | \$ 814 ( 34.0)  | \$ 918 ( 39.0)  | \$ 104 ( 5.0)         |
| Support             | 233             | 311             | 78                    | 233             | 276             | 43                    |
| <b>TOTAL</b>        | <b>\$ 1,047</b> | <b>\$ 1,229</b> | <b>\$ 182</b>         | <b>\$ 1,047</b> | <b>\$ 1,194</b> | <b>\$ 147</b>         |
| <b>NET EFFECT</b>   | <b>\$ 0</b>     | <b>\$ (182)</b> | <b>\$ (182)</b>       | <b>\$ 0</b>     | <b>\$ 124</b>   | <b>\$ 124</b>         |

SOURCE: Commerce Commission  
 Treasurer's Office  
 Iowa Crop and Livestock Reporting Service (LSB 8114S.2, RLB)

FILED MARCH 20, 1986

BY DENNIS PROUTY, FISCAL DIRECTOR

## SENATE FILE 2116

H-5227

Amend H-5166 to Senate File 2116 as follows:

- A
- 2 1. Page 1, by inserting after line 39 the  
 3 following:  
 4 "\_\_\_\_\_. Page 4, line 33, by striking the word  
 5 "thirty" and inserting the words "thirty sixty".  
 6 \_\_\_\_\_ Page 5, line 1, by striking the word  
 7 "thirty" and inserting the words "thirty sixty".  
 8 \_\_\_\_\_ Page 5, line 6, by striking the words  
 9 "thirty-day" and inserting the words "thirty-day  
 10 sixty-day"."  
 11 2. Page 1, by inserting before line 40 the  
 12 following:  
 13 "\_\_\_\_\_. Page 5, by inserting after line 7 the  
 14 following:  
 15 "Sec. \_\_\_\_\_. Section 542.3, Code Supplement 1985, is  
 16 amended by adding the following new subsection:  
 17 NEW SUBSECTION. 8. A deficiency bond or  
 18 irrevocable letter of credit filed with the commission  
 19 pursuant to this section shall not be canceled by the  
 20 issuer on less than one hundred twenty days' notice by  
 21 certified mail to the commissioner and the  
 22 principal."  
 23 3. Page 2, by inserting after line 8 the  
 24 following:  
 25 "\_\_\_\_\_. Page 13, by inserting after line 20 the  
 26 following:  
 27 "Sec. \_\_\_\_\_. Section 543.6, Code 1985, is amended by  
 28 adding the following new subsection:  
 29 NEW SUBSECTION. 8. A deficiency bond or  
 30 irrevocable letter of credit filed with the commission  
 31 pursuant to this section shall not be canceled by the  
 32 insurer on less than one hundred twenty days' notice  
 33 by certified mail to the commission and the  
 34 principal."  
 35 B 4. Page 2, by inserting before line 9 the  
 36 following:  
 37 "\_\_\_\_\_. Page 15, by striking lines 17 through 20  
 38 and inserting the following:  
 39 "1. A warehouse operator who stores only  
 40 agricultural products other than bulk grain shall have  
 41 and maintain a net worth of at least ten percent of  
 42 the value of the warehouse capacity, or maintain a  
 43 deficiency bond or an irrevocable letter of credit in  
 44 the amount of two thousand dollars for each one  
 45 thousand dollars or fraction thereof of net worth  
 46 deficiency. However, a person shall not be eligible  
 47 for a license to store only agricultural products  
 48 other than bulk grain if the person has a net worth of  
 49 less than ten thousand dollars."  
 \_\_\_\_\_ Page 15, by striking lines 21 and 22 and

13

1 inserting the following:

2 "3. A bond, deficiency bond, or irrevocable letter  
3 of credit on agricultural products other than bulk  
4 grain shall not be canceled by the issuer on less than  
5 one hundred twenty days' notice by certified mail to  
6 the commission and the principal. When the commission  
7 receives notice from an issuer that it has canceled  
8 the bond, deficiency bond, or irrevocable letter of  
9 credit on agricultural".

10 \_\_\_\_\_. Page 15, line 26, by inserting after the  
11 word "bond" the words ", deficiency bond,".

12 \_\_\_\_\_. Page 15, line 31, by inserting after the  
13 word "bond" the words ", deficiency bond,".

14 5. Page 2, by inserting before line 9 the  
15 following:

16 "\_\_\_\_\_. Page 16, line 34, by inserting after the  
17 word "and" the words ", if the claim relates to bulk  
18 grain,".

19 \_\_\_\_\_. Page 17, line 2, by inserting after the word  
20 "and" the words ", if the claim relates to bulk  
21 grain,".

22 6. Page 2, by inserting before line 9 the  
23 following:

24 "\_\_\_\_\_. Page 18, by inserting after line 22 the  
25 following:

26 "Sec. \_\_\_\_\_. Section 543.18, subsection 3, Code  
27 1985, is amended to read as follows:

28 3. A statement that the receipt is issued subject  
29 to the Iowa bonded warehouse Act and the rules and  
30 regulations prescribed thereunder pursuant to the  
31 Act."

32 7. Page 2, by striking lines 11 and 12 and  
33 inserting the following:

34 "1. "Board" means the Iowa grain indemnity board  
35 created in section".

36 8. Page 2, by inserting after line 23 the  
37 following:

38 "\_\_\_\_\_. Page 19, by striking line 23 and inserting  
39 the words "but does not include agricultural products  
40 other than bulk grain.""

41 9. Page 2, line 44, by striking the words  
42 "property or" and inserting the words "interest,  
43 property, or".

44 10. Page 2, line 49, by inserting after the  
45 figure "543A.6" the words "and to pay the  
46 administrative costs of this chapter".

47 11. Page 4, by striking lines 22 through 26 and  
48 inserting the following:

49 "6. The administrative costs of this chapter shall  
50 be paid from the fund after approval of the costs by

1 the board."

2 12. Page 4, by striking lines 28 and 29 and  
3 inserting the following:

4 "The Iowa grain indemnity board is established to  
5 advise the commission".

## SENATE FILE 2116

H-5459

1 Amend the amendment H-5166 to Senate File 2116 as  
2 amended, passed, and reprinted by the Senate as  
3 follows:

4 1. Page 1, by inserting after line 33 the  
5 following:

6 "\_\_\_\_\_. By striking page 1, line 35, through page  
7 2, line 7, and inserting the following: "commission.  
8 The grain dealer may elect, however, to submit a  
9 financial statement ~~satisfying the requirements of~~  
10 ~~subsection 57, paragraph "b,"~~ that is accompanied by  
11 the report of a certified public accountant licensed  
12 in this state that is based upon a review performed by  
13 the certified public accountant in lieu of the audited  
14 financial statement specified in this paragraph, and  
15 if a grain dealer makes this election the commission  
16 shall cause the grain dealer to be inspected not less  
17 than twice during each twelve-month period, but not  
18 more than five times in a twenty-four month period  
19 without good cause, in the manner provided in section  
20 542.9. In addition, the commission shall cause a  
21 grain dealer who makes this election to submit to two  
22 grain inventory inspections per license year,  
23 conducted by grain warehouse inventory inspectors who  
24 are not employees of the commission but who are  
25 approved and certified by the commission to conduct  
26 the grain inventory inspections. The results of the  
27 grain inventory inspections shall be forwarded to the  
28 commission in the form and manner provided by the  
29 commission by rule."

30 2. Page 1, by inserting after line 39 the  
31 following:

32 "\_\_\_\_\_. Page 4, line 5, by inserting after the word  
33 "commission." the following: "The grain dealer may  
34 elect, however, to submit a financial statement that  
35 is accompanied by the report of a certified public  
36 accountant licensed in this state that is based upon a  
37 review performed by the certified public accountant in  
38 lieu of the audited financial statement specified in  
39 this paragraph, and if a grain dealer makes this  
40 election the commission shall cause the grain dealer  
41 to be inspected not less than twice during each  
42 twelve-month period, but not more than five times in a  
43 twenty-four month period without good cause, in the  
44 manner provided in section 542.9. In addition, the  
45 commission shall cause a grain dealer who makes this  
46 election to submit to two grain inventory inspections  
47 per license year, conducted by grain warehouse  
48 inventory inspectors who are not employees of the  
49 commission but who are approved and certified by the  
50 commission to conduct the grain inventory inspections.

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1 The results of the grain inventory inspections shall  
2 be forwarded to the commission in the form and manner  
3 provided by the commission by rule."

4 3. Page 1, by inserting before line 40 the  
5 following:

6 " Page 7, by inserting after line 9 the  
7 following:

8 "NEW SUBSECTION. 8. A licensed grain dealer  
9 purchasing grain by credit sale contract shall at all  
10 times maintain grain, rights in grain, proceeds from  
11 the sale of grain, or a combination thereof totaling  
12 at least eight-five percent of the dealer's obligation  
13 for grain purchased by credit sale contract. The  
14 required amount shall be evidenced or represented by  
15 one or more of the following:

16 a. Grain actually held by the dealer in licensed  
17 storage facilities.

18 b. Rights in grain evidenced or represented by one  
19 or more of the following:

20 (1) A warehouse receipt issued by a warehouse  
21 licensed under chapter 543 or under the United States  
22 Warehouse Act, or by other documentation acceptable as  
23 evidence of inventory under the United States  
24 Warehouse Act.

25 (2) Evidence of grain forwarded to another  
26 warehouse under provisions of 543.39.

27 c. Sufficient proceeds from and of the grain  
28 evidenced or represented by one or more of the  
29 following:

30 (1) Cash-on hand or cash held on account in  
31 federally or state chartered financial institutions.

32 (2) Short term investments held in time accounts  
33 with federally or state chartered financial  
34 institutions.

35 (3) Balances on grain margin accounts.

36 (4) Credit sales contracts for grain shipped to a  
37 processor, terminal, or recognized grain merchandising  
38 entity, less any payment or advance that has been  
39 received provided that the price term of the contract  
40 remains open.

41 (5) Other evidence or proceeds from or of grain  
42 acceptable to the commission, including an irrevocable  
43 letter of credit.

44 For the purpose of computing the dollar value of  
45 inventories and credit sale obligations, the value of  
46 grain shall be figured at the then current market.

47 A grain dealer shall keep records of price later  
48 obligations and evidence of grain, rights in grain and  
49 the proceeds from or of grain so as to clearly  
50 indicate compliance with the requirements of this

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subsection.""

4. Page 2, by inserting after line 8 the following:

4. Page 8, line 18, by striking the word "The" and inserting the following: "The Except as provided in section 543.6, the".

7. Page 12, by striking lines 26 through 32 and inserting the following: "commission. The warehouse operator may elect, however, to submit a financial statement satisfying the requirements of subsection 57 paragraph "b7" that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a warehouse operator makes this election the commission shall cause the warehouse to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 542.9. In addition, the commission shall cause a warehouse operator who makes this election to submit to two grain inventory inspections per license year, conducted by grain warehouse inventory inspectors who are not employees of the commission but who are approved and certified by the commission to conduct the grain inventory inspections. The results of the grain inventory inspections shall be forwarded to the commission in the form and manner provided by the commission by rule."

8. Page 13, line 20, by inserting after the word "commission." the following: "The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a warehouse operator makes this election the commission shall cause the warehouse to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 543.2. In addition, the commission shall cause a warehouse operator who makes this election to submit to two grain inventory inspections per license year, conducted by grain warehouse inventory inspectors who are not employees of the commission but who are approved and certified by the commission to conduct the grain inventory inspections. The results of the

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1 grain inventory inspections shall be forwarded to the  
2 commission in the form and manner provided by the  
3 commission by rule."

4 5. Page 6, by striking lines 41 through 48 and  
5 inserting the following:

6 " \_\_\_\_ . Page 25, by striking lines 13 through 17."

H-5459 FILED MARCH 18, 1986 BY KOENIGS of Mitchell

*4/10 3/27 (p. 1041)*

SENATE FILE 2116

H-5323

1 Amend amendment H-5166 to Senate File 2116 as  
2 amended, passed and reprinted by the Senate as  
3 follows:

4 1. Page 4, by striking line 39 and inserting the  
5 following: "the senate, one of whom shall be a  
6 representative of grain depositors and sellers and one  
7 of whom shall be a representative of grain dealers and  
8 warehouse operators, each of whom shall be selected  
9 from a list of three nominations".

H-5323 FILED MARCH 12, 1986 BY KOENIGS of Mitchell

*Adopted 3/27 (p. 1055)*

SENATE FILE 2116

H-5449

1 Amend the amendment H-5166, to Senate File 2116 as  
2 amended, passed, and reprinted by the Senate as  
3 follows:

4 1. Page 5, by inserting after line 40 the  
5 following:

6 " \_\_\_\_ . Page 22, line 13, by striking the word  
7 "commission" and inserting the word "board".

H-5449 FILED MARCH 18, 1986 BY KOENIGS of Mitchell

*Adopted 3/27 (p. 1056)*

## SENATE FILE 2116

H-5484

1 Amend the amendment H-5166 to Senate File 2116 as  
2 amended, passed, and reprinted by the Senate as  
3 follows:

4 1. Page 1, by inserting after line 33 the  
5 following:

6 "\_\_\_\_\_. By striking page 1, line 35, through page  
7 2, line 7, and inserting the following: "commission.  
8 The grain dealer may elect, however, to submit a  
9 financial statement ~~satisfying the requirements of~~  
10 subsection 5, paragraph "b," that is accompanied by  
11 the report of a certified public accountant licensed  
12 in this state that is based upon a review performed by  
13 the certified public accountant in lieu of the audited  
14 financial statement specified in this paragraph, and  
15 if a grain dealer makes this election the commission  
16 shall cause the grain dealer to be inspected not less  
17 than twice during each twelve-month period, but not  
18 more than five times in a twenty-four month period  
19 without good cause, in the manner provided in section  
20 542.9. In addition, the commission shall cause a  
21 grain dealer who makes this election to submit to two  
22 grain inventory inspections per license year,  
23 conducted by grain warehouse inventory inspectors who  
24 are not employees of the commission but who are  
25 approved and certified by the commission to conduct  
26 the grain inventory inspections. The results of the  
27 grain inventory inspections shall be forwarded to the  
28 commission in the form and manner provided by the  
29 commission by rule."

30 2. Page 1, by inserting after line 39 the  
31 following:

32 "\_\_\_\_\_. Page 4, line 5, by inserting after the word  
33 "commission." the following: "The grain dealer may  
34 elect, however, to submit a financial statement that  
35 is accompanied by the report of a certified public  
36 accountant licensed in this state that is based upon a  
37 review performed by the certified public accountant in  
38 lieu of the audited financial statement specified in  
39 this paragraph, and if a grain dealer makes this  
40 election the commission shall cause the grain dealer  
41 to be inspected not less than twice during each  
42 twelve-month period, but not more than five times in a  
43 twenty-four month period without good cause, in the  
44 manner provided in section 542.9. In addition, the  
45 commission shall cause a grain dealer who makes this  
46 election to submit to two grain inventory inspections  
47 per license year, conducted by grain warehouse  
48 inventory inspectors who are not employees of the  
49 commission but who are approved and certified by the  
50 commission to conduct the grain inventory inspections.

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A

1 The results of the grain inventory inspections shall  
2 be forwarded to the commission in the form and manner  
3 provided by the commission by rule."

B

4 3. Page 1, by inserting before line 40 the  
5 following:

6 "\_\_\_\_. Page 7, by inserting after line 9 the  
7 following:

8 Sec. \_\_\_\_ . Section 542.15, Code Supplement 1985, is  
9 amended by adding the following new subsection:

10 NEW SUBSECTION. 8. A licensed grain dealer  
11 purchasing grain by credit sale contract shall at all  
12 times maintain grain, rights in grain, proceeds from  
13 the sale of grain, or a combination thereof totaling  
14 at least eighty-five percent of the dealer's  
15 obligation for grain purchased by credit sale  
16 contract. The required amount shall be evidenced or  
17 represented by one or more of the following:

18 a. Grain actually held by the dealer in licensed  
19 storage facilities.

20 b. Rights in grain evidenced or represented by one  
21 or more of the following:

22 (1) A warehouse receipt issued by a warehouse  
23 licensed under chapter 543 or under the United States  
24 Warehouse Act, or by other documentation acceptable as  
25 evidence of inventory under the United States  
26 Warehouse Act.

27 (2) Evidence of grain forwarded to another  
28 warehouse under provisions of 543.39.

29 c. Sufficient proceeds from and of the grain  
30 evidenced or represented by one or more of the  
31 following:

32 (1) Cash on hand or cash held on account in  
33 federally or state chartered financial institutions.

34 (2) Short term investments held in time accounts  
35 with federally or state chartered financial  
36 institutions.

37 (3) Balances on grain margin accounts.

38 (4) Credit sales contracts for grain shipped to a  
39 processor, terminal, or recognized grain merchandising  
40 entity, less any payment or advance that has been  
41 received provided that the price term of the contract  
42 remains open.

43 (5) Other evidence or proceeds from or of grain  
44 acceptable to the commission, including an irrevocable  
45 letter of credit.

46 For the purpose of computing the dollar value of  
47 inventories and credit sale obligations, the value of  
48 grain shall be figured at the then current market.

49 A grain dealer shall keep records of credit sale  
50 obligations and evidence of grain, rights in grain and

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1 the proceeds from or of grain so as to clearly  
2 indicate compliance with the requirements of this  
3 subsection."

4 4. Page 2, by inserting after line 8 the  
5 following:

6 "\_\_\_\_. Page 8, line 18, by striking the word "The"  
7 and inserting the following: "The Except as provided  
8 in section 543.6, the".

9 \_\_\_\_\_. Page 12, by striking lines 26 through 32 and  
10 inserting the following: "commission. The warehouse  
11 operator may elect, however, to submit a financial  
12 statement satisfying-the-requirements-of-subsection-57  
13 paragraph-"b," that is accompanied by the report of a  
14 certified public accountant licensed in this state  
15 that is based upon a review performed by the certified  
16 public accountant in lieu of the audited financial  
17 statement specified in this paragraph, and if a  
18 warehouse operator makes this election the commission  
19 shall cause the warehouse operator to be inspected  
20 twice during each twelve-month period, in the manner  
21 provided in section 543.2. In addition, the  
22 commission shall cause a warehouse operator who makes  
23 this election to submit to two grain inventory  
24 inspections per license year, conducted by grain  
25 warehouse inventory inspectors who are not employees  
26 of the commission but who are approved and certified  
27 by the commission to conduct the grain inventory  
28 inspections. The results of the grain inventory  
29 inspections shall be forwarded to the commission in  
30 the form and manner provided by the commission by  
31 rule."

32 \_\_\_\_\_. Page 13, line 20, by inserting after the  
33 word "commission." the following: "The warehouse  
34 operator may elect, however, to submit a financial  
35 statement that is accompanied by the report of a  
36 certified public accountant licensed in this state  
37 that is based upon a review performed by the certified  
38 public accountant in lieu of the audited financial  
39 statement specified in this paragraph, and if a  
40 warehouse operator makes this election the commission  
41 shall cause the warehouse to be inspected twice during  
42 each twelve-month period, in the manner provided in  
43 section 543.2. In addition, the commission shall  
44 cause a warehouse operator who makes this election to  
45 submit to two grain inventory inspections per license  
46 year, conducted by grain warehouse inventory  
47 inspectors who are not employees of the commission but  
48 who are approved and certified by the commission to  
49 conduct the grain inventory inspections. The results  
50 of the grain inventory inspections shall be forwarded

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1 to the commission in the form and manner provided by  
2 the commission by rule."

3 5. Page 6, by striking lines 41 through 48 and  
4 inserting the following:

5 " \_\_\_\_ . Page 25, by striking lines 13 through 17.

6 \_\_\_\_ . Title page, line 2, by inserting after the  
7 word "requirements," the word "and".

8 \_\_\_\_ . Title page, line 3, by striking the words "  
9 and providing an effective date".

H-5484 FILED MARCH 20, 1986 BY KOENIGS of Mitchell

A. *W/O 3/27 (p. 1057)*

B. *Adopted 3/27 (p. 1051), Recommended, adopted (p. 1051)*

C. *Adopted (p. 1057)*

## SENATE FILE 2116

H-5522

1 Amend Senate File 2116 as amended, passed, and  
2 reprinted by the Senate as follows:

3 1. Page 1, by inserting before line 1 the  
4 following:

5 "Section 1. Section 542.1, subsection 3, Code  
6 Supplement 1985, is amended to read as follows:

7 3. "Grain dealer" means a person who buys during  
8 any calendar month ~~five-hundred~~ one thousand bushels  
9 of grain or more from the producers of the grain for  
10 purposes of resale, milling, or processing. However,  
11 "grain dealer" does not include a producer of grain  
12 who is buying grain for the producer's own use as seed  
13 or feed; a person solely engaged in buying grain  
14 future contracts on the board of trade; a person who  
15 purchases grain only for sale in a registered feed; a  
16 person engaged in the business of selling agricultural  
17 seeds regulated by chapter 199; a person buying grain  
18 only as a farm manager; an executor, administrator,  
19 trustee, guardian, or conservator of an estate; a  
20 bargaining agent as defined in section 542A.1; a truck  
21 grain dealer as defined in 542B.1; or a custom  
22 livestock feeder."

23 2. Page 8, by inserting after line 9 the  
24 following:

25 "Sec. \_\_\_\_ . NEW SECTION. 542B.1 DEFINITIONS.

26 As used in this chapter, unless the context  
27 otherwise requires:

28 1. "Commission" means the Iowa state commerce  
29 commission.

30 2. "Grain" means any grain for which the United  
31 States department of agriculture has established  
32 standards including, but not limited to, corn, wheat,  
33 oats, soybeans, rye, barley, grain sorghum, flaxseeds,  
34 sunflower seed, spelt [emmer] and field peas.

35 3. "Truck grain dealer" means a person who buys  
36 during any calendar month one thousand bushels of  
37 grain or more from the producers of the grain for  
38 purposes of resale, milling, or processing, and whose  
39 grain dealing facilities and equipment are not  
40 principally stationary.

41 4. "Producer" means the owner, tenant, or operator  
42 of land in this state who has an interest in and  
43 receives all or a part of proceeds from the sale of  
44 grain produced on that land.

45 5. "Credit-sale contract" means a contract for the  
46 sale of grain pursuant to which the sale price is to  
47 be paid more than thirty days after the delivery of  
48 the grain to the buyer, and includes but is not  
49 limited to those contracts commonly referred to as  
50 deferred payment contracts, deferred pricing

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1 contracts, and price-later contracts.

2 Sec. \_\_\_\_ . NEW SECTION. 542B.2 DUTIES AND POWERS  
3 OF THE COMMISSION.

4 The commission may exercise general supervision  
5 over the business operations of truck grain dealers.  
6 The supervisory and regulatory powers authorized by  
7 this chapter shall be the responsibility of the  
8 warehouse division of the commission. The commission  
9 may inspect or cause to be inspected any truck dealer  
10 operating in this state and may require the filing of  
11 reports pertaining to the operation of the dealer's  
12 business. The commission shall adopt rules to provide  
13 for the efficient administration and regulation of the  
14 provisions of this chapter, and may designate an  
15 employee of the commission to act for the commission  
16 in any details connected with such administration,  
17 including the issuance of licenses and approval of  
18 truck grain dealers' bonds in the name of the  
19 commission.

20 Sec. \_\_\_\_ . NEW SECTION. 542B.3 LICENSE REQUIRED -  
21 - FINANCIAL RESPONSIBILITY.

22 1. A person shall not engage in the business of a  
23 truck grain dealer in this state without having  
24 obtained a license issued by the commission.

25 2. The type of license required shall be  
26 determined as follows:

27 a. A class 1 license is required if the truck  
28 grain dealer purchases any grain by credit-sale  
29 contract, or if the value of grain purchased by the  
30 truck grain dealer from producers during the truck  
31 grain dealer's previous fiscal year exceeds five  
32 hundred thousand dollars. Any other truck grain  
33 dealer may elect to be licensed as a class 1 truck  
34 grain dealer.

35 b. A class 2 license is required for any truck  
36 grain dealer not holding a class 1 license. A class 2  
37 licensee whose purchases from producers during a  
38 fiscal year exceed a limit of five hundred thousand  
39 dollars in value shall file within thirty days of the  
40 date the limit is reached a complete application for a  
41 class 1 license. If a class 1 license is denied, the  
42 person immediately shall cease doing business as a  
43 truck grain dealer.

44 3. An application for a license to engage in  
45 business as a truck grain dealer shall be filed with  
46 the commission and shall be in a form prescribed by  
47 the commission. The application shall include the  
48 name of the applicant, its principal officers if the  
49 applicant is a corporation or the active members of a  
50 partnership if the applicant is a partnership and the

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1 location of the principal office or place of business  
2 of the applicant. A separate license shall be  
3 required for each location at which records are  
4 maintained for transactions of the truck grain dealer.  
5 The application shall be accompanied by a complete  
6 financial statement of the applicant setting forth the  
7 assets, liabilities and the net worth of the  
8 applicant. The financial statement must be prepared  
9 according to generally accepted accounting principles.  
10 Assets shall be shown at original cost less  
11 depreciation. Upon a written request filed with the  
12 commission, the commission or a designated employee  
13 may allow asset valuations in accordance with a  
14 competent appraisal. Unpriced contracts shall be  
15 shown as a liability and valued at the applicable  
16 current market price of grain as of the date the  
17 financial statement is prepared.

18 4. In order to receive and retain a class 1  
19 license the following conditions must be satisfied:

20 a. The truck grain dealer shall have and maintain  
21 a net worth of at least fifty thousand dollars, or  
22 maintain a bond or irrevocable letter of credit in the  
23 amount of two thousand dollars for each one thousand  
24 dollars or fraction thereof of net worth deficiency.  
25 However, a person shall not be licensed as a class 1  
26 truck grain dealer if the person has a net worth of  
27 less than twenty-five thousand dollars. A bond or  
28 irrevocable letter of credit submitted for purposes of  
29 this paragraph shall be in addition to any bond or  
30 irrevocable letter of credit otherwise required under  
31 this chapter.

32 b. The truck grain dealer shall submit, as  
33 required by the commission, a financial statement that  
34 is accompanied by an unqualified opinion based upon an  
35 audit performed by a certified public accountant  
36 licensed in this state. However, the commission may  
37 accept a qualification in an opinion that is  
38 unavoidable by any audit procedure that is permitted  
39 under generally accepted accounting principles. An  
40 opinion that is qualified because of a limited audit  
41 procedure or because the scope of an audit is limited  
42 shall not be accepted by the commission. The truck  
43 grain dealer may elect, however, to submit a financial  
44 statement satisfying the requirements of subsection 5,  
45 paragraph "b," in lieu of the audited financial  
46 statement specified in this paragraph, and if a truck  
47 grain dealer makes this election the commission shall  
48 cause the truck grain dealer to be inspected not less  
49 than twice during each twelve-month period, but not  
50 more than five times in a twenty-four month period

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1 without good cause, in the manner provided in section  
2 542B.9.

3 c. The truck grain dealer shall have and maintain  
4 current assets equal to at least ninety percent of  
5 current liabilities or provide bond under the  
6 following conditions:

7 (1) A truck grain dealer with current assets equal  
8 to at least forty-five percent of current liabilities  
9 may provide a bond or irrevocable letter of credit of  
10 two thousand dollars for each one thousand dollars or  
11 fraction of one thousand dollars of current assets  
12 that the truck grain dealer is lacking to meet the  
13 minimum requirement. However, the bond or irrevocable  
14 letter of credit shall not be used for longer than six  
15 consecutive months in a twelve-month period.

16 (2) A truck grain dealer with current assets equal  
17 to less than forty-five percent of current liabilities  
18 may provide a bond or irrevocable letter of credit of  
19 two thousand dollars for each one thousand dollars or  
20 fraction of one thousand dollars of current assets  
21 that the truck grain dealer is lacking to meet the  
22 minimum requirement. However, the bond or irrevocable  
23 letter of credit shall not be used for longer than  
24 thirty consecutive days in a twelve-month period.

25 A bond or irrevocable letter of credit submitted  
26 for purposes of this paragraph shall be in addition to  
27 any other bond or irrevocable letter of credit  
28 permitted or required under this chapter.

29 5. In order to receive and retain a class 2  
30 license the following conditions must be satisfied:

31 a. The truck grain dealer shall have and maintain  
32 a net worth of at least twenty-five thousand dollars,  
33 or maintain a bond or irrevocable letter of credit in  
34 the amount of two thousand dollars for each one  
35 thousand dollars or fraction thereof of net  
36 deficiency. However, a person shall not be licensed  
37 as a class 2 truck grain dealer if the person has a  
38 net worth of less than ten thousand dollars. A bond  
39 or irrevocable letter of credit submitted for purposes  
40 of this paragraph shall be in addition to any bond or  
41 irrevocable letter of credit otherwise required under  
42 this chapter.

43 b. The truck grain dealer shall submit, as  
44 required by the commission, a financial statement that  
45 is accompanied by the report of a certified public  
46 accountant licensed in this state that is based upon a  
47 review performed by the certified public accountant.

48 c. The truck grain dealer shall have and maintain  
49 current assets equal to at least ninety percent of  
50 current liabilities or provide bond under the

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1 following conditions:

2 (1) A truck grain dealer with current assets equal  
3 to at least forty-five percent of current liabilities  
4 may provide a bond or irrevocable letter of credit of  
5 two thousand dollars for each one thousand dollars or  
6 fraction of one thousand dollars of current assets  
7 that the truck grain dealer is lacking to meet the  
8 minimum requirement. However, the bond or irrevocable  
9 letter of credit shall not be used for longer than six  
10 consecutive months in a twelve-month period.

11 (2) A truck grain dealer with current assets equal  
12 to less than forty-five percent of current liabilities  
13 may provide a bond or irrevocable letter of credit of  
14 two thousand dollars for each one thousand dollars or  
15 fraction of one thousand dollars of current assets  
16 that the truck grain dealer is lacking to meet the  
17 minimum requirement. However, the bond or irrevocable  
18 letter of credit shall not be used for longer than  
19 thirty consecutive days in a twelve-month period.

20 A bond or irrevocable letter of credit submitted  
21 for purposes of this paragraph shall be in addition to  
22 any other bond or irrevocable letter of credit  
23 permitted or required under this chapter.

24 6. The commission shall adopt rules relating to  
25 the form and time of filing of financial statements.  
26 The commission may require additional information or  
27 verification with respect to the financial resources  
28 of the applicant and the applicant's ability to pay  
29 producers for grain purchased from them.

30 7. a. When the net worth or current ratio of a  
31 licensee in good standing is less than that required  
32 by this section, the truck grain dealer shall correct  
33 the deficiency or file the necessary additional bond  
34 or irrevocable letter of credit within thirty days of  
35 written notice by the commission. Unless the  
36 deficiency is corrected or the additional bond or  
37 irrevocable letter of credit is filed within thirty  
38 days, the truck grain dealer license shall be  
39 suspended.

40 b. If the commission finds that the welfare of  
41 grain producers requires emergency action, and  
42 incorporates a finding to that effect in its order,  
43 immediate suspension of the license may be ordered  
44 notwithstanding the thirty-day period otherwise  
45 allowed by paragraph "a" of this subsection.

46 Sec.         . NEW SECTION. 542B.4 BOND REQUIRED.

47 An applicant for a license to operate as a truck  
48 grain dealer shall, as a condition to the granting of  
49 the license, file with the commission a bond or  
50 irrevocable letter of credit payable to the state of

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1 Iowa issued by a surety approved by the commission  
2 conditioned that the applicant will pay the purchase  
3 price of any grain to the producer; provided that the  
4 aggregate liability of the surety to such persons  
5 shall in no event exceed the sum of such bond or  
6 irrevocable letter of credit. The bond or irrevocable  
7 letter of credit for each class 1 license shall be in  
8 the penal sum of fifty thousand dollars. The bond or  
9 irrevocable letter of credit for each class 2 license  
10 shall be in the penal sum of twenty-five thousand  
11 dollars. One bond or irrevocable letter of credit,  
12 cumulative as to minimum requirements, shall be  
13 required where a person has more than one license, but  
14 in no event shall the total amount of security  
15 required by this section exceed three hundred thousand  
16 dollars for a class 1 licensee, or one hundred fifty  
17 thousand dollars for a class 2 licensee. No bond or  
18 irrevocable letter of credit shall be canceled by a  
19 surety before at least sixty days' notice by certified  
20 mail to the commission and the truck grain dealer.  
21 The liability of the surety shall cover purchases made  
22 by the truck grain dealer during the time the bond or  
23 irrevocable letter of credit is in force. A truck  
24 grain dealer's bond or irrevocable letter of credit  
25 filed with this commission shall be in continuous  
26 force until canceled by the surety. The liability of  
27 the surety on any bond or irrevocable letter of credit  
28 required by the provisions of this chapter shall not  
29 accumulate for each successive license period during  
30 which the bond or irrevocable letter of credit is in  
31 force.

32 Sec. \_\_\_\_ . NEW SECTION. 542B.5 LICENSE.

33 Upon the filing of the application and compliance  
34 with the terms and conditions of this chapter and  
35 rules of the commission, the commission shall issue a  
36 license to the applicant. The license shall terminate  
37 on the thirtieth of June of each year. A truck grain  
38 dealer's license may be renewed annually by the filing  
39 of a renewal fee and a renewal application on a form  
40 prescribed by the commission. An application for  
41 renewal shall be received by the commission before the  
42 thirtieth of June. A truck grain dealer license which  
43 has terminated may be reinstated by the commission  
44 upon receipt of a proper renewal application, the  
45 renewal fee, and the reinstatement fee as provided in  
46 section 542B.6 if filed within thirty days from the  
47 date of termination of the truck grain dealer license.  
48 The commission may cancel a license upon request of  
49 the licensee unless a complaint or information is  
50 filed against the licensee alleging a violation of a

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1 provision of this chapter.

2 If an applicant has had a license under chapter  
3 542, 542A, 542B, or 543 revoked for cause within the  
4 past three years, or has been convicted of a felony  
5 involving violations of chapter 542, 542A, 542B, or  
6 543, or is owned or controlled by a person who has had  
7 a license so revoked or who has been so convicted, the  
8 commission may deny a license to the applicant.

9 Sec. \_\_\_\_ . NEW SECTION. 542B.6 FEES.

10 The commission shall charge the following fees for  
11 deposit in the general fund:

12 1. For the issuance or renewal of a license for a  
13 truck grain dealer and for any inspection of a truck  
14 grain dealer, the fee shall be determined on the basis  
15 of dollar volume of all grain purchased the previous  
16 calendar year as follows:

17 a. If the total purchased is one hundred thousand  
18 dollars or less, the license fee is forty dollars and  
19 the inspection fee is fifty dollars.

20 b. If the total purchased is more than one hundred  
21 thousand dollars, but not more than seven hundred  
22 fifty thousand dollars, the license fee is seventy  
23 dollars and the inspection fee is seventy-five  
24 dollars.

25 c. If the total purchased is more than seven  
26 hundred fifty thousand dollars, but not more than one  
27 million five hundred thousand dollars, the license fee  
28 is one hundred dollars and the inspection fee is one  
29 hundred fifteen dollars.

30 d. If the total purchased is more than one million  
31 five hundred thousand dollars, but not more than three  
32 million dollars, the license fee is one hundred  
33 seventy-five dollars and the inspection fee is one  
34 hundred fifty dollars.

35 e. If the total purchased is more than three  
36 million dollars, but not more than four million seven  
37 hundred fifty thousand dollars, the license fee is  
38 three hundred dollars and the inspection fee is one  
39 hundred eighty-five dollars.

40 f. If the total purchased is more than four  
41 million seven hundred fifty thousand dollars, but not  
42 more than nine million five hundred thousand dollars,  
43 the license fee is four hundred twenty-five dollars  
44 and the inspection fee is two hundred twenty-five  
45 dollars.

46 g. If the total purchased is more than nine  
47 million five hundred thousand dollars, the license fee  
48 is five hundred seventy-five dollars and the  
49 inspection fee is two hundred sixty-five dollars.

50 If the applicant did not purchase grain the

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1 previous calendar year, the applicant will pay the fee  
2 specified in paragraph "a". If during the license  
3 period the total grain actually purchased exceeds one  
4 hundred thousand dollars, the licensee shall notify  
5 the commission and the license and inspection fee  
6 shall be adjusted accordingly. Subsequent adjustments  
7 shall be made as necessary. An applicant may elect  
8 licensing in any category of this subsection. New  
9 licenses issued for less than a full year shall be  
10 prorated from the date of application.

11 2. For an amendment to a license, the fee is ten  
12 dollars.

13 3. For a duplicate license, the fee is five  
14 dollars.

15 4. For reinstatement of a license the fee is fifty  
16 dollars.

17 Sec. \_\_\_\_ . NEW SECTION. 542B.7 POSTING OF  
18 LICENSE.

19 The truck grain dealer's license shall be posted in  
20 a conspicuous location in the place of business. A  
21 truck grain dealer's license is not transferable.

22 Sec. \_\_\_\_ . NEW SECTION. 542B.8 PAYMENT.

23 A person licensed as a truck grain dealer shall pay  
24 the purchase price to the owner or the owner's agent  
25 for grain upon delivery or demand of the owner or  
26 agent, but not later than thirty days after delivery  
27 by the owner or agent unless in accordance with the  
28 terms of a credit-sale contract that satisfies the  
29 requirements of this chapter.

30 As used in this section, "delivery" means the  
31 transfer of title to and possession of grain by the  
32 seller to the truck grain dealer or to another person  
33 in accordance with the agreement of the seller and the  
34 truck grain dealer; and "payment" means the actual  
35 payment or tender of payment by the truck grain dealer  
36 to the seller of the agreed purchase price, or in the  
37 case of disputes as to sales of grain, the undisputed  
38 portion of the purchase price without reduction for  
39 any separate claim of the truck grain dealer against  
40 the seller.

41 Sec. \_\_\_\_ . NEW SECTION. 542B.9 INSPECTION OF  
42 PREMISES, BOOKS, AND RECORDS.

43 The commission may inspect the premises used by any  
44 truck grain dealer in the conduct of the dealer's  
45 business at any time, and the books, accounts, records  
46 and papers of every truck grain dealer which pertain  
47 to grain purchases are subject to inspection by the  
48 commission during ordinary business hours. The  
49 commission shall cause the business premises and  
50 books, accounts, records and papers of every truck

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1 grain dealer to be inspected not less than once during  
2 each twelve-month period, but not more than three  
3 times in a twenty-four month period without good  
4 cause. However, if a class 1 truck grain dealer  
5 elects to submit the unaudited financial statement  
6 under section 542B.3, subsection 4, paragraph "b," the  
7 commission shall cause the truck grain dealer to be  
8 inspected not less than twice during each twelve-month  
9 period, but not more than five times in a twenty-four  
10 month period without good cause. The transporter of  
11 grain in transit shall possess bills of lading or  
12 other documents covering the grain, and shall present  
13 them to any law enforcement officer or to a person  
14 designated as an enforcement officer under section  
15 542B.13 on demand. If there is good cause to believe  
16 that a person is engaged without a license in the  
17 business of a truck grain dealer in this state, the  
18 commission may inspect the books, papers, and records  
19 of the person which pertain to grain purchases.

20 If the truck grain dealer does not maintain a place  
21 of business in this state, the commission is not  
22 required to inspect the business premises of the truck  
23 grain dealer, and the truck grain dealer shall submit  
24 all books, records and papers relating to grain  
25 transactions occurring within this state to the  
26 commission for purposes of an inspection required or  
27 permitted under this section at any reasonable time  
28 and place, including the offices of the commission  
29 during regular business hours, as ordered by the  
30 commission or the director of the warehouse division.

31 Sec. \_\_\_\_ . NEW SECTION. 542B.10 SUSPENSION OR  
32 REVOCATION OF LICENSE.

33 The commission may after hearing and upon  
34 information being filed with the commission by the  
35 head of the warehouse division of the commission or  
36 upon complaint filed by any person, suspend or revoke  
37 the license of any person licensed under this chapter  
38 for the violation of or failure to comply with the  
39 provisions of this chapter or any rule adopted under  
40 this chapter. An information or a verified complaint  
41 stating the grounds for suspension or revocation shall  
42 be filed with the commission in triplicate. The  
43 commission shall notify the licensee of the complaint  
44 and furnish the licensee with a copy of the  
45 information or the complaint and a copy of the order  
46 of the commission fixing the time for a hearing, which  
47 time shall be at least five days from the date of  
48 notification. If the commission determines that the  
49 public good requires immediate action, the commission  
50 may, upon the filing of the information or the

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1 complaint and without hearing, temporarily suspend a  
2 license pending the determination by it of the  
3 complaint. Judicial review of the actions of the  
4 commission may be sought in accordance with the terms  
5 of the Iowa administrative procedure Act.

6 The commission may revoke a truck grain dealer's  
7 license upon information without hearing if a truck  
8 grain dealer fails to have sufficient security on file  
9 with the commission, or if a truck grain dealer fails  
10 to submit to inspection.

11 Sec. \_\_\_\_ . NEW SECTION. 542B.11 PENALTIES --  
12 INJUNCTIONS.

13 1. A person who knowingly submits false  
14 information to or knowingly withholds information from  
15 the commission or any of its employees when required  
16 to be submitted or maintained under this chapter,  
17 commits a fraudulent practice.

18 2. A person who engages in business as a truck  
19 grain dealer without obtaining a license, or who  
20 refuses to permit inspection of licensed premises, or  
21 books, accounts, records, or other documents required  
22 by this chapter, or who uses a scale ticket, or  
23 credit-sale contract that fails to satisfy  
24 requirements established by the commission commits a  
25 serious misdemeanor, except that a person who commits  
26 any of these offenses after having been found guilty  
27 of the same offense commits an aggravated misdemeanor.

28 3. Except as provided in subsections 1 and 2, a  
29 person who violates any provision of this chapter  
30 commits a simple misdemeanor. With respect to a  
31 continuing violation, each day that the violation  
32 continues is a separate offense.

33 4. A violation of this chapter, or a violation of  
34 chapter 714 or 715 involving the business of a truck  
35 grain dealer, may be restrained by an injunction in an  
36 action brought by the commerce commission.

37 Sec. \_\_\_\_ . NEW SECTION. 542B.12 CLAIMS -- NOTICE.

38 Upon revocation, termination, or cancellation of a  
39 truck grain dealer license, any claim for the purchase  
40 price of grain against the truck grain dealer shall be  
41 made in writing and filed with the truck grain dealer  
42 and with the surety on the truck grain dealer bond or  
43 irrevocable letter of credit within one hundred twenty  
44 days after revocation, termination or cancellation.  
45 Failure to make this timely claim shall relieve the  
46 surety of all obligations to the claimant. However,  
47 this section shall not be construed to reduce below  
48 the face amount of the bond or irrevocable letter of  
49 credit then in effect the aggregate liability of the  
50 surety to other claimants.

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1 Upon revocation of a truck grain dealer license,  
2 the commission shall cause notice of such revocation  
3 to be published once each week for two consecutive  
4 weeks in a newspaper of general circulation within the  
5 state of Iowa and in a newspaper of general  
6 circulation within the county of the truck grain  
7 dealer's principal place of business when that  
8 dealer's principal place of business is located in the  
9 state of Iowa. The notice shall state the name and  
10 address of the truck grain dealer, the effective date  
11 of revocation, and the name and address of the surety  
12 on the truck grain dealer bond or irrevocable letter  
13 of credit. The notice shall also state that any claims  
14 against the truck grain dealer shall be made in  
15 writing and sent by ordinary mail or delivered  
16 personally within one hundred twenty days after  
17 revocation to the truck grain dealer and the surety on  
18 the truck grain dealer bond or irrevocable letter of  
19 credit.

20 Sec. \_\_\_\_ . NEW SECTION. 542B.13 ENFORCEMENT

21 OFFICERS.

22 The commission may designate by resolution certain  
23 of its employees in the warehouse division to be  
24 enforcement officers. Each person so designated shall  
25 have the authority of a peace officer to make arrests  
26 for violations of this chapter.

27 Sec. \_\_\_\_ . NEW SECTION. 542B.14 NO OBLIGATION OF  
28 STATE.

29 Nothing in this chapter shall be construed to imply  
30 any guarantee or obligation on the part of the state  
31 of Iowa, or any of its agencies, employees or  
32 officials, either elective or appointive, in respect  
33 to any agreement or undertaking to which the  
34 provisions of this chapter relate.

35 Sec. \_\_\_\_ . NEW SECTION. 542B.15 CREDIT-SALE

36 CONTRACTS.

37 1. A truck grain dealer shall not purchase grain  
38 by a credit-sale contract except as provided in this  
39 section.

40 2. A truck grain dealer shall give written notice  
41 to the commission prior to engaging in the purchase of  
42 grain by credit-sale contracts. Notice shall be on  
43 forms provided by the commission. The notice shall  
44 contain information required by the commission.

45 3. All credit-sale contract forms in the  
46 possession of a truck grain dealer shall have been  
47 permanently and consecutively numbered at the time of  
48 printing of the forms. A truck grain dealer shall  
49 maintain an accurate record of all credit-sale  
50 contract forms and numbers obtained by that dealer

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1 The record shall include the disposition of each  
2 numbered form, whether by execution, destruction, or  
3 otherwise.

4 4. A truck grain dealer who purchases grain by  
5 credit-sale contracts shall maintain books, records  
6 and other documents as required by the commission to  
7 establish compliance with this section.

8 5. In addition to other information as may be  
9 required, a credit-sale contract shall contain or  
10 provide for all of the following:

11 a. The seller's name and address.

12 b. The conditions of delivery.

13 c. The amount and kind of grain delivered.

14 d. The price per bushel or basis of value.

15 e. The date payment is to be made.

16 f. The duration of the credit-sale contract, which  
17 shall not exceed twelve months from the date the  
18 contract is executed.

19 6. Title to all grain sold by a credit-sale  
20 contract is in the purchasing dealer as of the time  
21 the contract is executed, unless the contract provides  
22 otherwise. The contract must be signed by both  
23 parties and executed in duplicate. One copy shall be  
24 retained by the truck grain dealer and one copy shall  
25 be delivered to the seller. Upon revocation,  
26 termination, or cancellation of a truck grain dealer  
27 license, the payment date for all credit-sale  
28 contracts shall be advanced to a date not later than  
29 thirty days after the effective date of the  
30 revocation, termination, or cancellation, and the  
31 purchase price for all unpriced grain shall be  
32 determined as of the effective date of revocation,  
33 termination, or cancellation in accordance with all  
34 other provisions of the contract. However, if the  
35 business of the truck grain dealer is sold to another  
36 licensed grain dealer or licensed truck grain dealer,  
37 credit-sale contracts may be assigned to the purchaser  
38 of the business.

39 7. A truck grain dealer shall not purchase grain  
40 on credit during any time period in which the truck  
41 dealer's current assets are less than forty-five  
42 percent of current liabilities.

43 Sec. \_\_\_\_ . NEW SECTION. 542B.16 CONFIDENTIALITY  
44 OF RECORDS.

45 Notwithstanding chapter 22, all financial  
46 statements of truck grain dealers under this chapter  
47 shall be kept confidential by the commission and its  
48 agents and employees and are not subject to disclosure  
49 except as follows:

50 1. Upon waiver by the licensee.

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1 2. In actions or administrative proceedings  
2 commenced under this chapter or chapter 543.

3 3. When required by subpoena or court order.

4 4. Disclosure to law enforcement agencies in  
5 regard to the detection and prosecution of public  
6 offenses.

7 5. When released to a bonding company approved by  
8 the commission, or released to the United States  
9 department of agriculture or any of its divisions.

10 6. Where released at the request of the Iowa board  
11 of accountancy for licensee review and discipline in  
12 accordance with chapters 116 and 258A and subject to  
13 the confidentiality requirements of section 258A.6.

14 Sec. \_\_\_\_ . NEW SECTION. 542B.17 STANDARDIZATION  
15 OF RECORDS AND DOCUMENTS.

16 1. The commission may adopt rules specifying the  
17 form, content and use of scale tickets, and credit-  
18 sale contracts. All scale ticket forms in the  
19 possession of a truck grain dealer shall have been  
20 permanently and consecutively numbered at the time of  
21 printing. A truck grain dealer shall maintain an  
22 accurate record of all scale ticket numbers. The  
23 record shall include the disposition of each numbered  
24 form, whether issued, destroyed, or otherwise disposed  
25 of.

26 2. A licensed truck grain dealer shall keep  
27 complete and accurate records of all grain  
28 transactions. Records for the previous six years  
29 shall be made available for inspection by the  
30 commission.

31 Sec. \_\_\_\_ . NEW SECTION. 542B.18 SHRINKAGE  
32 ADJUSTMENTS --DISCLOSURES -- PENALTIES.

33 1. A person who, in connection with the receipt of  
34 corn or soybeans for storage, processing, or sale,  
35 adjusts the scale weight of the grain to compensate  
36 for the moisture content of the grain shall compute  
37 the amount of the adjustment by multiplying the scale  
38 weight of the grain by that factor which results in a  
39 rate of adjustment of one and eighteen hundredths  
40 percent of weight per one percent of moisture content.  
41 The use of any rate of weight adjustment for moisture  
42 content other than the one prescribed by this  
43 subsection is a fraudulent practice. The person shall  
44 post on the business premises in a conspicuous place  
45 notice of the rate of adjustment for moisture content  
46 that is prescribed by this subsection. Failure to  
47 make this disclosure is a simple misdemeanor.

48 2. A person who, in connection with the receipt of  
49 grain for storage, processing or sale, adjusts the  
50 quantity of the grain received to compensate for

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1 losses to be incurred during the handling, processing,  
 2 or storage of the grain shall post on the business  
 3 premises in a conspicuous place notice of the rate of  
 4 adjustment to be made for this shrinkage. Failure to  
 5 make the required disclosure is a simple misdemeanor.  
 6 3. A person who adjusts the scale weight of corn  
 7 or soybeans both for moisture content and for  
 8 handling, processing, or storage losses may combine  
 9 the two adjustment factors into a single factor and  
 10 may use this resulting factor to compute the amount of  
 11 weight adjustment in connection with storage,  
 12 processing, or sale transactions, provided that the  
 13 person shall post on the business premises in a  
 14 conspicuous place a notice that discloses the moisture  
 15 shrinkage factor prescribed by subsection 1, the  
 16 handling shrinkage factor to be imposed, and the  
 17 single factor that results from combining these  
 18 factors. Failure to make the required disclosure is a  
 19 simple misdemeanor."

H-5522 FILED MARCH 21, 1986

BY DE GROOT of Lyon

*H/O 3/27 (p.1057)*

SENATE FILE 2116

H-5512

1 Amend amendment H-5166 to Senate File 2116 as  
 2 amended, passed, and reprinted by the Senate as  
 3 follows:  
 4 1. Page 1, line 18, by striking the word "fifty"  
 5 and inserting the words "one hundred".

H-5512 FILED MARCH 21, 1986

BY DE GROOT of Lyon

*H/O 3/27 (p.1041)*

SENATE FILE 2116

H-5529

Amend amendment H-5166 to Senate File 2116 as amended, passed and reprinted by the Senate as follows:

1. Page 1, by inserting before line 40 the following:

"\_\_\_\_\_. Page 5, by inserting after line 7 the following:

"Sec. \_\_\_\_\_. Section 542.3, Code Supplement 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A deficiency bond or irrevocable letter of credit filed with the commission pursuant to this section shall not be canceled by the issuer on less than ninety days' notice by certified mail to the commissioner and the principal."

2. Page 2, by inserting after line 8 the following:

"\_\_\_\_\_. Page 13, by inserting after line 20 the following:

"Sec. \_\_\_\_\_. Section 543.6, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A deficiency bond or irrevocable letter of credit filed with the commission pursuant to this section shall not be canceled by the issuer on less than one hundred twenty days' notice by certified mail to the commission and the principal."

\_\_\_\_\_. Page 13, line 23, by inserting before the word "When" the figure "1."

\_\_\_\_\_. Page 14, line 15, by striking the word "section" and inserting the words "section subsection".

\_\_\_\_\_. Page 14, line 19, by inserting before the word "If" the figure "2."

\_\_\_\_\_. Page 14, line 24, by striking the word "sixty" and inserting the word "thirty".

\_\_\_\_\_. Page 14, line 26, by striking the word "sixty-day" and inserting the word "thirty-day".

\_\_\_\_\_. Page 14, line 27, by striking the word "ninety" and inserting the word "sixty".

\_\_\_\_\_. Page 15, line 3, by striking the word "section" and inserting the word "subsection".

\_\_\_\_\_. Page 15, by inserting after line 5 the following:

"3. When the commission receives notice that a deficiency bond or irrevocable letter of credit is being canceled by the issuer, and determines that upon the cancellation the warehouse operation will not be in compliance with section 543.6, the commission shall suspend the warehouse operator's license if a new deficiency bond or irrevocable letter of credit is not received by the commission within sixty days of

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1 receipt by the commisison of the notice of  
2 cancellation. If a new deficiency bond or irrevocable  
3 letter of credit is not received by the commission  
4 within thirty days following suspension, the warehouse  
5 operator's license shall be revoked. When a license  
6 is revoked, the commission shall notify each holder of  
7 an outstanding warehouse receipt and all known persons  
8 who have grain retained in open storage of the  
9 revocation, and shall further notify each receipt  
10 holder and all known persons who have grain retained  
11 in open storage that the grain must be removed from  
12 the warehouse not later than the thirtieth day  
13 following revocation. The notice shall be sent by  
14 ordinary mail to the last known address of each person  
15 having grain in storage as provided in this  
16 subsection."

H-5529 FILED MARCH 24, 1986

BY KOENIGS of Mitchell

*Adopted 2/27 (p. 1053)*

## SENATE FILE 2116

H-5561

1 Amend the amendment H-5166 to Senate File 2116 as  
 2 amended, passed, and reprinted by the Senate as  
 3 follows:

4 1. Page 1, by inserting after line 33 the  
 5 following:

6 "\_\_\_\_\_. By striking page 1, line 35, through page  
 7 2, line 7, and inserting the following: "commission.  
 8 The grain dealer may elect, however, to submit a  
 9 financial statement ~~satisfying the requirements of~~  
 10 ~~subsection 5, paragraph "b,"~~ that is accompanied by  
 11 the report of a certified public accountant licensed  
 12 in this state that is based upon a review performed by  
 13 the certified public accountant in lieu of the audited  
 14 financial statement specified in this paragraph, and  
 15 if a grain dealer makes this election the commission  
 16 shall cause the grain dealer to be inspected not less  
 17 than twice during each twelve-month period, but not  
 18 more than five times in a twenty-four month period  
 19 without good cause, in the manner provided in section  
 20 542.9. In addition, the commission shall cause a  
 21 grain dealer who makes this election to submit to the  
 22 commission, in a form and manner prescribed by the  
 23 commission, an interim financial statement no less  
 24 than once in every three calendar month period."

25 2. Page 1, by inserting after line 39 the  
 26 following:

27 "\_\_\_\_\_. Page 4, line 5, by inserting after the word  
 28 "commission." the following: "The grain dealer may  
 29 elect, however, to submit a financial statement that  
 30 is accompanied by the report of a certified public  
 31 accountant licensed in this state that is based upon a  
 32 review performed by the certified public accountant in  
 33 lieu of the audited financial statement specified in  
 34 this paragraph, and if a grain dealer makes this  
 35 election the commission shall cause the grain dealer  
 36 to be inspected not less than twice during each  
 37 twelve-month period, but not more than five times in a  
 38 twenty-four month period without good cause, in the  
 39 manner provided in section 542.9. In addition, the  
 40 commission shall cause a grain dealer who makes this  
 41 election to submit to the commission, in a form and  
 42 manner prescribed by the commission, an interim  
 43 financial statement no less than once in every three  
 44 calendar month period."

45 3. Page 2, by inserting after line 8 the  
 46 following:

47 "\_\_\_\_\_. Page 8, line 18, by striking the word "The"  
 48 and inserting the following: "The Except as provided  
 49 in section 543.6, the".

50 \_\_\_\_\_. Page 12, by striking lines 26 through 32 and

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1 inserting the following: "commission. The warehouse  
 2 operator may elect, however, to submit a financial  
 3 statement ~~satisfying the requirements of subsection 5,~~  
 4 ~~paragraph "b,"~~ that is accompanied by the report of a  
 5 certified public accountant licensed in this state  
 6 that is based upon a review performed by the certified  
 7 public accountant in lieu of the audited financial  
 8 statement specified in this paragraph, and if a  
 9 warehouse operator makes this election the commission  
 10 shall cause the warehouse operator to be inspected not  
 11 less than twice during each twelve-month period, but  
 12 not more than five times in a twenty-four month period  
 13 without good cause, in the manner provided in section  
 14 543.2. In addition, the commission shall cause a  
 15 warehouse operator who makes this election to submit  
 16 to the commission, in a form and manner prescribed by  
 17 the commission, an interim financial statement no less  
 18 than once in every three calendar month period."

19 \_\_\_\_\_. Page 13, line 20, by inserting after the  
 20 word "commission." the following: "The warehouse  
 21 operator may elect, however, to submit a financial  
 22 statement that is accompanied by the report of a  
 23 certified public accountant licensed in this state  
 24 that is based upon a review performed by the certified  
 25 public accountant in lieu of the audited financial  
 26 statement specified in this paragraph, and if a  
 27 warehouse operator makes this election the commission  
 28 shall cause the warehouse to be inspected not less  
 29 than twice during each twelve-month period, but not  
 30 more than five times in a twenty-four month period  
 31 without good cause, in the manner provided in section  
 32 543.2. In addition, the commission shall cause a  
 33 warehouse operator who makes this election to submit  
 34 to the commission, in a form and manner prescribed by  
 35 the commission, an interim financial statement no less  
 36 than once in every three calendar month period.""

B 37 4. Page 2, by striking lines 14 through 23.

38 5. Page 2, by inserting after line 34 the  
 C 39 following:

40 " \_\_\_\_\_. Page 19, by inserting after line 32 the  
 41 following:

42 "8. "Storage" means that grain has been received  
 43 and has come under care, custody or control of a  
 44 warehouse operator either for the depositor for which  
 45 a contract of purchase has not been negotiated or for  
 46 the warehouse operator operating the facility, and  
 47 includes grain received for which the actual sale  
 48 price is not fixed and proper documentation made or  
 49 payment made.""

B 50 6. Page 2, lines 38 and 39, by striking the words

1 "deducted from the purchase price of grain at the time  
2 of sale".

3 7. By striking page 2, line 50 through page 3,  
4 line 18, and inserting the following:

5 "2. All licensed grain dealers, licensed warehouse  
6 operators, and participating federally licensed  
7 warehouses shall remit, in the manner prescribed by  
8 the commission, the per-bushel fee determined in  
9 accordance with section 543A.4 on all grain sold to  
10 them by depositors or sellers. However, the per-  
11 bushel fee shall be collected only once on each bushel  
12 of grain."

13 8. Page 5, by striking lines 24 and 25 and  
14 inserting the following: "not exceed one-quarter cent  
15 per bushel on soybeans and one-tenth cent per bushel  
16 on all other grains on".

17 9. Page 5, by striking lines 28 and 29 and  
18 inserting the following: "per-bushel fee on soybeans  
19 is one-quarter cent, and is one-tenth cent on all  
20 other grains on which the fee".

21 10. Page 5, by inserting after line 30 the  
22 following:

23 " . Page 21, line 31, by striking the word  
24 "eight" and inserting the word "six"."

25 11. By striking page 5, line 49 through page 6,  
26 line 15, and inserting the following:

27 "a. For claims regarding grain dealer  
28 transactions, eighty-five percent of the loss, but not  
29 more than one hundred thousand dollars per claimant.

30 b. For claims regarding storage transactions, one  
31 hundred percent of the loss, but not more than one  
32 hundred thousand dollars per claimant."

BY PELLETT of Cass  
HARBOR of Mills  
HANDORF of Marshall

H-5561 FILED MARCH 26, 1986

- A- Adopted 3/27 (p. 1049)
- B- Lost (p. 1054)
- C- Adopted (p. 1054)
- D- Lost (p. 1054)
- E- Adopted (p. 1056)

SENATE FILE 2116

H-5563

1 Amend amendment H-5166 to Senate File 2116 as  
2 amended, passed and reprinted by the Senate as  
3 follows:

4 1. Page 1, line 8, by striking the words "five  
A 5 hundred" and inserting the words "five-hundred one  
6 thousand".

7 2. Page 1, line 25, by inserting after the figure  
B 8 "542A.1;" the following: "a truck grain dealer as  
9 defined in 542B.1;".

H-5563 FILED MARCH 27, 1986 BY DE GROOT of Lyon  
DIVISION A AND DIVISION B - WITHDRAWN (p. 104, 1057)

SENATE FILE 2116

H-5577

1 Amend Senate File 2116 as amended, passed and  
2 reprinted by the Senate as follows:

3 1. Title page, line 3, by inserting after the word  
4 "fund" the following: ", and providing a penalty".

H-5577 FILED MARCH 27, 1986 BY KREMER of Buchanan  
ADOPTED BY UNANIMOUS CONSENT (p. 1057)

CORRECTED  
HOUSE AMENDMENT TO  
SENATE FILE 2116

S-5520

1 Amend Senate File 2116 as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting before line 1 the  
4 following:

5 "Section 1. Section 542.1, subsection 3, Code  
6 Supplement 1985, is amended to read as follows:

7 3. "Grain dealer" means a person who buys during  
8 any calendar month five hundred bushels of grain or  
9 more from the producers of the grain for purposes of  
10 resale, milling, or processing. However, "grain  
11 dealer" does not include a producer of grain who is  
12 buying grain for the producer's own use as seed or  
13 feed; a person solely engaged in buying grain future  
14 contracts on the board of trade; a person who  
15 purchases grain only for sale in a registered feed; a  
16 person who purchases grain for sale in a nonregistered  
17 customer-formula feed regulated by chapter 198, who  
18 purchases less than a total of fifty thousand bushels  
19 of grain annually, and who is also exempt as an  
20 incidental warehouse operator under chapter 543; a  
21 person engaged in the business of selling agricultural  
22 seeds regulated by chapter 199; a person buying grain  
23 only as a farm manager; an executor, administrator,  
24 trustee, guardian, or conservator of an estate; a  
25 bargaining agent as defined in section 542A.1; or a  
26 custom livestock feeder."

27 2. Page 1, by striking lines 11 and 12, and  
28 inserting the following:

29 "a. The grain dealer shall have and maintain a net  
30 worth of at least".

31 3. Page 1, by striking lines 16 through 21, and  
32 inserting the following: "net worth deficiency.  
33 However a person".

34 4. By striking page 1, line 35, through page 2,  
35 line 7, and inserting the following: "commission.  
36 The grain dealer may elect, however, to submit a  
37 financial statement ~~satisfying the requirements of~~  
38 ~~subsection-57-paragraph-"b,"~~ that is accompanied by  
39 the report of a certified public accountant licensed  
40 in this state that is based upon a review performed by  
41 the certified public accountant in lieu of the audited  
42 financial statement specified in this paragraph, and  
43 if a grain dealer makes this election the commission  
44 shall cause the grain dealer to be inspected not less  
45 than twice during each twelve-month period, but not  
46 more than five times in a twenty-four month period  
47 without good cause, in the manner provided in section  
48 542.9. In addition, the commission shall cause a  
49 grain dealer who makes this election to submit to the  
50 commission, in a form and manner prescribed by the

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1 commission, an interim financial statement no less  
2 than once in every three calendar month period."

3 5. Page 2, by striking lines 8 and 9, and  
4 inserting the following:

5 "c. The grain dealer shall have and maintain  
6 current assets equal to at".

7 6. By striking page 2, line 29, through page 3,  
8 line 15.

9 7. Page 4, line 5, by inserting after the word  
10 "commission." the following: "The grain dealer may  
11 elect, however, to submit a financial statement that  
12 is accompanied by the report of a certified public  
13 accountant licensed in this state that is based upon a  
14 review performed by the certified public accountant in  
15 lieu of the audited financial statement specified in  
16 this paragraph, and if a grain dealer makes this  
17 election the commission shall cause the grain dealer  
18 to be inspected not less than twice during each  
19 twelve-month period, but not more than five times in a  
20 twenty-four month period without good cause, in the  
21 manner provided in section 542.9. In addition, the  
22 commission shall cause a grain dealer who makes this  
23 election to submit to the commission, in a form and  
24 manner prescribed by the commission, an interim  
25 financial statement no less than once in every three  
26 calendar month period."

27 8. Page 5, by inserting after line 7 the  
28 following:

29 "Sec. \_\_\_\_\_. Section 542.3, Code Supplement 1985, is  
30 amended by adding the following new subsection:

31 NEW SUBSECTION. 8. A deficiency bond or  
32 irrevocable letter of credit filed with the commission  
33 pursuant to this section shall not be canceled by the  
34 issuer on less than ninety days' notice by certified  
35 mail to the commissioner and the principal."

36 9. Page 7, by inserting after line 9 the  
37 following:

38 "Sec. \_\_\_\_\_. Section 542.15, Code Supplement 1985,  
39 is amended by adding the following new subsection:

40 NEW SUBSECTION. 8. A licensed grain dealer  
41 purchasing grain by credit sale contract shall at all  
42 times maintain grain, rights in grain, proceeds from  
43 the sale of grain, or a combination thereof totaling  
44 at least eighty-five percent of the dealer's  
45 obligation for grain purchased by credit sale  
46 contract. The required amount shall be evidenced or  
47 represented by one or more of the following:

48 a. Grain actually held by the dealer in licensed  
49 storage facilities.

50 b. Rights in grain evidenced or represented by one

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1 or more of the following:

2 (1) A warehouse receipt issued by a warehouse  
3 licensed under chapter 543 or under the United States  
4 Warehouse Act, or by other documentation acceptable as  
5 evidence of inventory under the United States  
6 Warehouse Act.

7 (2) Evidence of grain forwarded to another  
8 warehouse under provisions of 543.39.

9 c. Sufficient proceeds from and of the grain  
10 evidenced or represented by one or more of the  
11 following:

12 (1) Cash on hand or cash held on account in  
13 federally or state chartered financial institutions.

14 (2) Short term investments held in time accounts  
15 with federally or state chartered financial  
16 institutions.

17 (3) Balances on grain margin accounts.

18 (4) Credit sales contracts for grain shipped to a  
19 processor, terminal, or recognized grain merchandising  
20 entity, less any payment or advance that has been  
21 received provided that the price term of the contract  
22 remains open.

23 (5) Other evidence or proceeds from or of grain  
24 acceptable to the commission, including an irrevocable  
25 letter of credit.

26 For the purpose of computing the dollar value of  
27 inventories and credit sale obligations, the value of  
28 grain shall be figured at the then current market.

29 A grain dealer shall keep records of credit sale  
30 obligations and evidence of grain, rights in grain and  
31 the proceeds from or of grain so as to clearly  
32 indicate compliance with the requirements of this  
33 subsection."

34 10. Page 8, by inserting after line 9 the  
35 following:

36 "Sec. \_\_\_\_\_. Section 543.1, subsection 8, Code 1985,  
37 is amended to read as follows:

38 8. "Warehouse operator" means any a person engaged  
39 in the business of operating or controlling a  
40 warehouse for the storing, shipping, handling or  
41 processing of agricultural products, but does not  
42 include an incidental warehouse operator.

43 Sec. \_\_\_\_\_. Section 543.1, Code 1985, is amended by  
44 adding the following new subsection:

45 NEW SUBSECTION. 23. "Incidental warehouse  
46 operator" means a person regulated under chapter 198  
47 whose grain storage capacity does not exceed twenty-  
48 five thousand bushels which is used exclusively for  
49 grain owned or grain which will be returned to the  
50 depositor for use in a feeding operation or as an

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1 ingredient in a customer-formula feed, as defined in  
2 section 198.1."

3 11. Page 8, line 18, by striking the word "The"  
4 and inserting the following: "The Except as provided  
5 in section 543.6, the".

6 12. Page 12, by striking lines 26 through 32 and  
7 inserting the following: "commission. The warehouse  
8 operator may elect, however, to submit a financial  
9 statement satisfying the requirements of subsection 5,  
10 paragraph "b," that is accompanied by the report of a  
11 certified public accountant licensed in this state  
12 that is based upon a review performed by the certified  
13 public accountant in lieu of the audited financial  
14 statement specified in this paragraph, and if a  
15 warehouse operator makes this election the commission  
16 shall cause the warehouse operator to be inspected not  
17 less than twice during each twelve-month period, but  
18 not more than five times in a twenty-four month period  
19 without good cause, in the manner provided in section  
20 543.2. In addition, the commission shall cause a  
21 warehouse operator who makes this election to submit  
22 to the commission, in a form and manner prescribed by  
23 the commission, an interim financial statement no less  
24 than once in every three calendar month period."

25 13. Page 13, line 20, by inserting after the word  
26 "commission." the following: "The warehouse operator  
27 may elect, however, to submit a financial statement  
28 that is accompanied by the report of a certified  
29 public accountant licensed in this state that is based  
30 upon a review performed by the certified public  
31 accountant in lieu of the audited financial statement  
32 specified in this paragraph, and if a warehouse  
33 operator makes this election the commission shall  
34 cause the warehouse to be inspected not less than  
35 twice during each twelve-month period, but not more  
36 than five times in a twenty-four month period without  
37 good cause, in the manner provided in section 543.2.  
38 In addition, the commission shall cause a warehouse  
39 operator who makes this election to submit to the  
40 commission, in a form and manner prescribed by the  
41 commission, an interim financial statement no less  
42 than once in every three calendar month period."

43 14. Page 13, by inserting after line 20 the  
44 following:

45 "Sec. \_\_\_\_ . Section 543.6, Code 1985, is amended by  
46 adding the following new subsection:

47 NEW SUBSECTION. 8. A deficiency bond or  
48 irrevocable letter of credit filed with the commission  
49 pursuant to this section shall not be canceled by the  
50 issuer on less than one hundred twenty days' notice by

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1 certified mail to the commission and the principal."

2 15. Page 13, line 23, by inserting before the  
3 word "When" the figure "1."

4 16. Page 14, line 15, by striking the word  
5 "section" and inserting the words "section  
6 subsection".

7 17. Page 14, line 19, by inserting before the  
8 word "If" the figure "2."

9 18. Page 14, line 24, by striking the word  
10 "sixty" and inserting the word "thirty".

11 19. Page 14, line 26, by striking the word  
12 "sixty-day" and inserting the word "thirty-day".

13 20. Page 14, line 27, by striking the word  
14 "ninety" and inserting the word "sixty".

15 21. Page 15, line 3, by striking the word  
16 "section" and inserting the word "subsection".

17 22. Page 15, by inserting after line 5 the  
18 following:

19 "3. When the commission receives notice that a  
20 deficiency bond or irrevocable letter of credit is  
21 being canceled by the issuer, and determines that upon  
22 the cancellation the warehouse operation will not be  
23 in compliance with section 543.6, the commission shall  
24 suspend the warehouse operator's license if a new  
25 deficiency bond or irrevocable letter of credit is not  
26 received by the commission within sixty days of  
27 receipt by the commission of the notice of  
28 cancellation. If a new deficiency bond or irrevocable  
29 letter of credit is not received by the commission  
30 within thirty days following suspension, the warehouse  
31 operator's license shall be revoked. When a license  
32 is revoked, the commission shall notify each holder of  
33 an outstanding warehouse receipt and all known persons  
34 who have grain retained in open storage of the  
35 revocation, and shall further notify each receipt  
36 holder and all known persons who have grain retained  
37 in open storage that the grain must be removed from  
38 the warehouse not later than the thirtieth day  
39 following revocation. The notice shall be sent by  
40 ordinary mail to the last known address of each person  
41 having grain in storage as provided in this  
42 subsection."

43 23. Page 15, by striking lines 17 through 20 and  
44 inserting the following:

45 "1. A warehouse operator who stores only  
46 agricultural products other than bulk grain shall have  
47 and maintain a net worth of at least ten percent of  
48 the value of the warehouse capacity, or maintain a  
49 deficiency bond or an irrevocable letter of credit in  
50 the amount of two thousand dollars for each one

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1 thousand dollars or fraction thereof of net worth  
2 deficiency. However, a person shall not be eligible  
3 for a license to store only agricultural products  
4 other than bulk grain if the person has a net worth of  
5 less than ten thousand dollars."

6 24. Page 15, by striking lines 21 and 22 and  
7 inserting the following:

8 "3. A bond, deficiency bond, or irrevocable letter  
9 of credit on agricultural products other than bulk  
10 grain shall not be canceled by the issuer on less than  
11 one hundred twenty days' notice by certified mail to  
12 the commission and the principal. When the commission  
13 receives notice from an issuer that it has canceled  
14 the bond, deficiency bond, or irrevocable letter of  
15 credit on agricultural".

16 25. Page 15, line 26, by inserting after the word  
17 "bond" the words ", deficiency bond,".

18 26. Page 15, line 31, by inserting after the word  
19 "bond" the words ", deficiency bond,".

20 27. Page 16, line 34, by inserting after the word  
21 "and" the words ", if the claim relates to bulk  
22 grain,".

23 28. Page 17, line 2, by inserting after the word  
24 "and" the words ", if the claim relates to bulk  
25 grain,".

26 29. Page 18, by inserting after line 22 the  
27 following:

28 "Sec. \_\_\_\_ . Section 543.18, subsection 3, Code  
29 1985, is amended to read as follows:

30 3. A statement that the receipt is issued subject  
31 to the Iowa bonded warehouse Act and the rules and  
32 regulations prescribed thereunder pursuant to the  
33 Act."

34 30. Page 19, by inserting after line 12 the  
35 following:

36 "1. "Board" means the Iowa grain indemnity board  
37 created in section 543A.4."

38 31. Page 19, by inserting after line 17 the  
39 following:

40 "2A. "First purchaser" means a person, public or  
41 private corporation, governmental subdivision,  
42 association, co-operative, partnership, commercial  
43 buyer, dealer, or processor who purchases grain from a  
44 producer for the first time for any purpose except to  
45 feed it to the purchaser's livestock or to manufacture  
46 a product from the grain purchased for the purchaser's  
47 personal consumption."

48 32. Page 19, by striking line 23 and inserting  
49 the words "but does not include agricultural products  
50 other than bulk grain."

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1 33. Page 19, by inserting after line 28 the  
2 following:  
3 "6A. "Sale" or "purchase" includes but is not  
4 limited to the pledge or other encumbrance of grain as  
5 security for a loan extended under a federal price  
6 support loan program. Actual delivery of the grain  
7 occurs when the grain is pledged or otherwise  
8 encumbered to secure the loan. The purchase price of  
9 the grain is the principal amount of the loan extended  
10 and the purchase invoice for the grain is the  
11 documentation required for extension of the loan."

12 34. Page 19, by inserting after line 32 the  
13 following:

14 "8. "Storage" means that grain has been received  
15 and has come under care, custody or control of a  
16 warehouse operator either for the depositor for which  
17 a contract of purchase has not been negotiated or for  
18 the warehouse operator operating the facility, and  
19 includes grain received for which the actual sale  
20 price is not fixed and proper documentation made or  
21 payment made."

22 35. By striking page 20, line 16 through page 21,  
23 line 12 and inserting the following: "depositor's and  
24 seller's indemnity fund under section 543A.6. The fund  
25 consists of a per-bushel fee deducted from the  
26 purchase price of grain at the time of sale, an annual  
27 fee charged to and remitted by licensed grain dealers,  
28 licensed warehouse operators, and participating  
29 federally licensed grain warehouses under this  
30 section, sums collected by the commission by legal  
31 action on behalf of the fund, and interest, property,  
32 or securities acquired through the use of moneys in  
33 the fund. The moneys collected under this section and  
34 deposited in the fund shall be used exclusively to  
35 indemnify depositors and sellers as provided in  
36 section 543A.6 and to pay the administrative costs of  
37 this chapter.

38 2. The per-bushel fee shall be deducted by the  
39 first purchaser from the purchase price of grain at  
40 the time of sale. The first purchaser shall forward  
41 the per-bushel fee to the commission in the manner and  
42 using the forms prescribed by the commission. If the  
43 per-bushel fee has not been forwarded to the  
44 commission by the date required by the commission, the  
45 first purchaser is subject to a late penalty of one  
46 hundred dollars per day for each day the first  
47 purchaser fails to forward the fee. It is a simple  
48 misdemeanor for a person to withhold the per-bushel  
49 fee for more than sixty days after the date required  
50 by the commission, and it is a simple misdemeanor for

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1 a person to willfully render or furnish a false or  
2 fraudulent report, statement, or record required by  
3 the commission. The first purchaser will show the  
4 total amount of the per-bushel fee on the purchase  
5 invoice. The per-bushel fee shall be collected only  
6 once on each bushel of grain.

7 3. a. All licensed grain dealers, licensed  
8 warehouse operators, and participating federally  
9 licensed grain warehouses shall annually remit a fee  
10 to be deposited into the fund which is determined as  
11 follows:

12 (1) For class 1 grain dealers, five hundred  
13 dollars.

14 (2) For class 2 grain dealers, two hundred fifty  
15 dollars.

16 (3) For warehouse operators or participating  
17 federally licensed grain warehouses:

18 (a) For intended storage of bulk grain in any  
19 quantity less than twenty thousand bushels, forty-two  
20 dollars plus seven dollars for each two thousand  
21 bushels or fraction thereof in excess of twelve  
22 thousand bushels.

23 (b) For intended storage of bulk grain in any  
24 quantity not less than twenty thousand bushels and not  
25 more than fifty thousand bushels, seventy dollars plus  
26 four and a half dollars for each three thousand  
27 bushels or fraction thereof in excess of twenty  
28 thousand bushels.

29 (c) For intended storage of bulk grain in any  
30 quantity not less than fifty thousand bushels and not  
31 more than seventy thousand bushels, one hundred  
32 fifteen dollars plus four and a half dollars for each  
33 four thousand bushels or fraction thereof in excess of  
34 fifty thousand bushels.

35 (d) For intended storage of bulk grain in any  
36 quantity not less than seventy thousand bushels, one  
37 hundred thirty-seven and a half dollars plus two and  
38 three-quarters dollars for each five thousand bushels  
39 or fraction thereof in excess of seventy thousand  
40 bushels.

41 b. Payment of the required amount shall be made  
42 before the grain dealer's or warehouse operator's  
43 license is renewed, or before the participating  
44 federal licensee's agreement with the commission is  
45 ratified.

46 4. For one year after the effective date of this  
47 Act, all licensed grain dealers, licensed warehouse  
48 operators, and participating federally licensed grain  
49 warehouses shall pay a fee equal to twice the fee  
50 scheduled pursuant to subsection 3. A person who

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1 applies for a grain dealer's or warehouse operator's  
2 license or a federal licensee who elects to  
3 participate in the fund after one year from the  
4 effective date of this Act, and who has not previously  
5 paid the double fee, shall pay that amount before the  
6 license is issued or the agreement is ratified.

7 5. All disbursements from the fund shall be paid  
8 by the treasurer of state pursuant to vouchers  
9 authorized by the commission.

10 6. The administrative costs of this chapter shall  
11 be paid from the fund after approval of the costs by  
12 the board.

13 Sec. 27. NEW SECTION. 543A.4 ADVISORY BOARD.

14 The Iowa grain indemnity board is established to  
15 advise the commission on matters relating to the fund  
16 and to perform the duties provided it in this chapter.  
17 The board is composed of the secretary of the  
18 department of agriculture or a designee who shall  
19 serve as president; the director of the department of  
20 insurance or a designee who shall serve as secretary;  
21 the state treasurer or a designee who shall serve as  
22 treasurer; and two representatives of the grain  
23 industry appointed by the governor, subject to  
24 confirmation by the senate, one of whom shall be a  
25 representative of grain depositors and sellers and one  
26 of whom shall be a representative of grain dealers and  
27 warehouse operators, each of whom shall be selected  
28 from a list of three nominations made by the secretary  
29 of agriculture. The term of membership of the grain  
30 industry representatives is three years, and the  
31 representatives are eligible for reappointment. The  
32 grain industry representatives are entitled to forty  
33 dollars per diem for each day spent in the performance  
34 of the duties of the board, plus actual expenses  
35 incurred in the performance of those duties. Three  
36 members of the board constitute a quorum, and the  
37 affirmative vote of three members is necessary for any  
38 action taken by the board, except that a lesser number  
39 may adjourn a meeting. A vacancy in the membership of  
40 the board does not impair the rights of a quorum to  
41 exercise all the rights and perform all the duties of  
42 the board."

43 36. Page 21, line 13, by striking the figure  
44 "543A.4" and inserting the figure "543A.5".

45 37. Page 21, line 14, by striking the word  
46 "commission" and inserting the word "board".

47 38. Page 21, by striking lines 17 through 29 and  
48 inserting the following: "the per-bushel fee required  
49 under section 543A.3, subsection 2, and the dealer-  
50 warehouse fee required under section 543A.3,

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1 subsection 3 that are necessary to maintain the fund  
2 within the limits established under this section. Not  
3 later than the first day of May of each year, the  
4 board shall determine the proposed amount of the per-  
5 bushel fee based on the expected volume of grain on  
6 which the fee is to be collected and that is likely to  
7 be handled under this chapter. The per-bushel fee and  
8 the dealer-warehouse fee shall be adjusted on a pro  
9 rata basis. The board shall make any changes in the  
10 previous year's fees in accordance with chapter 17A.  
11 Changes in the fees shall become effective on the  
12 following first day of July. The per-bushel fee shall  
13 not exceed one-half cent per bushel on soybeans and  
14 one-quarter cent per bushel on all other grains on  
15 which the fee is to be paid. Until the per-bushel fee  
16 is adjusted or waived as provided in this section, the  
17 per-bushel fee on soybeans is one-half cent, and is  
18 one-quarter cent on all other grains on which the fee  
19 is paid."

20 39. Page 21, line 31, by striking the word  
21 "eight" and inserting the word "six".

22 40. Page 21, line 32, by inserting before the  
23 word "fee" the word "per-bushel".

24 41. By striking page 21, line 33, through page  
25 22, line 1, and inserting the following: "under  
26 section 543A.3, subsection 2, and the dealer-warehouse  
27 fee required under section 543A.3, subsection 3, shall  
28 be waived until the board reinstates the fees on a pro  
29 rata basis to maintain the liquidity of the fund."

30 42. Page 22, line 2, by striking the figure  
31 "543A.5" and inserting the figure "543A.6".

32 43. Page 22, line 13, by striking the word  
33 "commission" and inserting the word "board".

34 44. Page 22, line 26, by striking the word  
35 "commission" and inserting the word "board".

36 45. Page 22, line 33, by striking the word  
37 "moneys" and inserting the following: "a loss  
38 incurred on or after July 1, 1986".

39 46. By striking page 22, line 35, through page  
40 23, line 7, and inserting the following: "remedies as  
41 follows:

42 a. For claims regarding grain dealer transactions,  
43 eighty-five percent of the loss, but not more than one  
44 hundred thousand dollars per claimant.

45 b. For claims regarding storage transactions, one  
46 hundred percent of the loss, but not more than one  
47 hundred thousand dollars per claimant.

48 The aggregate amount recovered by a depositor or  
49 seller under all remedies shall not exceed one hundred  
50 percent of the value of the loss. If the moneys

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1 recovered by a depositor or seller under all remedies  
2 exceed one hundred percent of the value of the loss,  
3 the depositor or seller shall reimburse the fund in  
4 the amount that exceeds the value of the loss."

5 47. Page 23, line 8, by striking the word  
6 "commission" and inserting the word "board".

7 48. Page 23, line 18, by striking the word  
8 "commission" and inserting the word "board".

9 49. Page 23, lines 28 and 29, by striking the  
10 words "However, no claims shall be paid before the  
11 fund initially reaches one million dollars."

12 50. Page 24, line 11, by striking the figure  
13 "543A.6" and inserting the figure "543A.7".

14 51. Page 24, line 31, by striking the word "June"  
15 and inserting the word "September".

16 52. By striking page 24, line 35, through page  
17 25, line 1, and inserting the following: "the  
18 indemnity fund is liable for claims which arise on or  
19 after July 1, 1986 but before October 1, 1986 only if  
20 the".

21 53. Page 25, line 8, by striking the word "June"  
22 and inserting the word "October".

23 54. Page 25, by striking lines 13 through 17.

24 55. Title page, line 2, by inserting after the  
25 word "requirements," the word "and".

26 56. Title page, line 3, by inserting after the  
27 word "fund" the following: ", and providing a  
28 penalty".

29 57. Title page, line 3, by striking the words "  
30 and providing an effective date".

April 14, 1986

REPORT OF THE CONFERENCE COMMITTEE  
ON SENATE FILE 2116

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to resolve the differences between the Senate and the House of Representatives on Senate File 2116, a bill for an Act relating to grain dealers and warehouses, by providing licensing requirements, establishing a grain depositors and sellers indemnity fund, and providing an effective date, respectfully make the following report:

1. That the House recede from its amendment.
2. That Senate File 2116 as amended, passed, and reprinted by the Senate be amended as follows:
  1. Page 1, by inserting before line 1 the following:  
"Section 1. Section 542.1, subsection 3, Code Supplement 1985, is amended to read as follows:
    3. "Grain dealer" means a person who buys during any calendar month five hundred bushels of grain or more from the producers of the grain for purposes of resale, milling, or processing. However, "grain dealer" does not include a producer of grain who is buying grain for the producer's own use as seed or feed; a person solely engaged in buying grain future contracts on the board of trade; a person who purchases grain only for sale in a registered feed; a person who purchases grain for sale in a nonregistered customer-formula feed regulated by chapter 198, who purchases less than a total of fifty thousand bushels of grain annually, and who is also

exempt as an incidental warehouse operator under chapter 543; a person engaged in the business of selling agricultural seeds regulated by chapter 199; a person buying grain only as a farm manager; an executor, administrator, trustee, guardian, or conservator of an estate; a bargaining agent as defined in section 542A.1; or a custom livestock feeder."

2. Page 1, by striking lines 11 and 12, and inserting the following:

"a. The grain dealer shall have and maintain a net worth of at least".

3. Page 1, by striking lines 16 through 21, and inserting the following: "net worth deficiency. However a person".

4. By striking page 1, line 35 through page 2, line 7, and inserting the following: "commission. The grain dealer may elect, however, to submit a financial statement satisfying the requirements of subsection 57, paragraph "b7," that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a grain dealer makes this election the commission shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 542.9. In addition, the commission shall cause a grain dealer who makes this election to submit to the commission, in a form and manner prescribed by the commission, an interim financial statement no less than once in every three calendar month period. If a grain dealer making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8."

5. Page 2, by striking lines 8 and 9, and inserting the following:

c. The grain dealer shall have and maintain current assets equal to at".

6. By striking page 2, line 29, through page 3, line 15.

7. Page 4, line 5, by inserting after the word "commission." the following: "The grain dealer may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a grain dealer makes this election the commission shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 542.9. In addition, the commission shall cause a grain dealer who makes this election to submit to the commission, in a form and manner prescribed by the commission, an interim financial statement no less than once in every three calendar month period. If a grain dealer making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8."

8. Page 5, by inserting after line 7 the following:

"Sec. \_\_\_\_ . Section 542.3, Code Supplement 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A deficiency bond or irrevocable letter of credit filed with the commission pursuant to this section shall not be canceled by the issuer on less than ninety days' notice by certified mail to the commissioner and the principal."

9. Page 7, by inserting after line 9 the following:

"Sec. \_\_\_\_ . Section 542.15, Code Supplement 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A licensed grain dealer purchasing grain by credit sale contract and who does not submit a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state shall at all times maintain grain, rights in grain, proceeds from the sale of grain, or a

combination thereof totaling at least ninety percent of the dealer's obligation for grain purchased by credit sale contract. The required amount shall be evidenced or represented by one or more of the following:

a. Grain actually held by the dealer in licensed storage facilities.

b. Rights in grain evidenced or represented by one or more of the following:

(1) A warehouse receipt issued by a warehouse licensed under chapter 543 or under the United States Warehouse Act, or by other documentation acceptable as evidence of inventory under the United States Warehouse Act.

(2) Evidence of grain forwarded to another warehouse under provisions of 543.39.

c. Sufficient proceeds from and of the grain evidenced or represented by one or more of the following:

(1) Cash on hand or cash held on account in federally or state chartered financial institutions.

(2) Short term investments held in time accounts with federally or state chartered financial institutions.

(3) Balances on grain margin accounts.

(4) Credit sales contracts for grain shipped to a processor, terminal, or recognized grain merchandising entity, less any payment or advance that has been received provided that the price term of the contract remains open.

(5) Other evidence or proceeds from or of grain acceptable to the commission, including an irrevocable letter of credit.

For the purpose of computing the dollar value of inventories and credit sale obligations, the value of grain shall be figured at the then current market.

A grain dealer shall keep records of credit sale obligations and evidence of grain, rights in grain and the proceeds from or of grain so as to clearly indicate compliance with the requirements of this subsection."

10. Page 8, by inserting after line 9 the following:

"Sec. \_\_\_\_ . Section 543.1, subsection 8, Code 1985, is amended to read as follows:

8. "Warehouse operator" means any a person engaged in the business of operating or controlling a warehouse for the storing, shipping, handling or processing of agricultural products, but does not include an incidental warehouse operator.

Sec. \_\_\_\_ . Section 543.1, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 23. "Incidental warehouse operator" means a person regulated under chapter 198 whose grain storage capacity does not exceed twenty-five thousand bushels which is used exclusively for grain owned or grain which will be returned to the depositor for use in a feeding operation or as an ingredient in a customer-formula feed, as defined in section 198.1."

11. Page 8, line 18, by striking the word "The" and inserting the following: "The Except as provided in section 543.6, the".

12. Page 12, by striking lines 26 through 32 and inserting the following: "commission. The warehouse operator may elect, however, to submit a financial statement satisfying the requirements of subsection 57-paragraph-"b7" that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a warehouse operator makes this election the commission shall cause the warehouse operator to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 543.2. In addition, the commission shall cause a warehouse operator who makes this election to submit to the commission, in a form and manner prescribed by the commission, an interim financial statement no less than once in every three calendar month period."

13. Page 13, line 20, by inserting after the word "commission." the following: "The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a warehouse operator makes this election the commission shall cause the warehouse to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 543.2. In addition, the commission shall cause a warehouse operator who makes this election to submit to the commission, in a form and manner prescribed by the commission, an interim financial statement no less than once in every three calendar month period."

14. Page 13, by inserting after line 20 the following:

"Sec. \_\_\_\_ . Section 543.6, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A deficiency bond or irrevocable letter of credit filed with the commission pursuant to this section shall not be canceled by the issuer on less than one hundred twenty days' notice by certified mail to the commission and the principal."

15. Page 13, line 23, by inserting before the word "When" the figure "1."

16. Page 14, line 15, by striking the word "section" and inserting the words "section subsection".

17. Page 14, line 19, by inserting before the word "If" the figure "2."

18. Page 14, line 24, by striking the word "sixty" and inserting the word "thirty".

19. Page 14, line 26, by striking the word "sixty-day" and inserting the word "thirty-day".

20. Page 14, line 27, by striking the word "ninety" and inserting the word "sixty".

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21. Page 15, line 3, by striking the word "section" and inserting the word "subsection".

22. Page 15, by inserting after line 5 the following:

"3. When the commission receives notice that a deficiency bond or irrevocable letter of credit is being canceled by the issuer, and determines that upon the cancellation the warehouse operation will not be in compliance with section 543.6, the commission shall suspend the warehouse operator's license if a new deficiency bond or irrevocable letter of credit is not received by the commission within sixty days of receipt by the commission of the notice of cancellation. If a new deficiency bond or irrevocable letter of credit is not received by the commission within thirty days following suspension, the warehouse operator's license shall be revoked. When a license is revoked, the commission shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of the revocation, and shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following revocation. The notice shall be sent by ordinary mail to the last known address of each person having grain in storage as provided in this subsection."

23. Page 15, by striking lines 17 through 20 and inserting the following:

"1. A warehouse operator who stores only agricultural products other than bulk grain shall have and maintain a net worth of at least ten percent of the value of the warehouse capacity, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be eligible for a license to store only agricultural products other than bulk grain if the person has a net worth of less than ten thousand dollars."

24. Page 15, by striking lines 21 and 22 and inserting the following:

"3. A bond, deficiency bond, or irrevocable letter of credit on agricultural products other than bulk grain shall not be canceled by the issuer on less than one hundred twenty days' notice by certified mail to the commission and the principal. When the commission receives notice from an issuer that it has canceled the bond, deficiency bond, or irrevocable letter of credit on agricultural".

25. Page 15, line 26, by inserting after the word "bond" the words ", deficiency bond,".

26. Page 15, line 31, by inserting after the word "bond" the words ", deficiency bond,".

27. Page 16, line 34, by inserting after the word "and" the words ", if the claim relates to bulk grain,".

28. Page 17, line 2, by inserting before the word "the" the words ", if the claim relates to bulk grain,".

29. Page 18, by inserting after line 22 the following:

"Sec. \_\_\_\_ . Section 543.18, subsection 3, Code 1985, is amended to read as follows:

3. A statement that the receipt is issued subject to the Iowa bonded warehouse Act and the rules and regulations prescribed thereunder pursuant to the Act."

30. Page 19, by inserting after line 12 the following:

"1. "Board" means the Iowa grain indemnity fund board created in section 543A.4."

31. Page 19, by striking line 23 and inserting the words "but does not include agricultural products other than bulk grain."

32. Page 19, by inserting after line 23 the following:

"4A. "Grain bank" means grain which is deposited in a warehouse until removed for the personal use of the depositor.

4B. "Grain sold" means grain which crosses the scales of a grain dealer or warehouse operator other than for grain bank storage, and other grain purchased by a grain dealer. "Grain sold" includes the pledge or other encumbrance of grain as

security for a loan extended under a federal price support loan program. The date of sale of grain which is security for a loan extended under a federal price support loan program is the date the grain is delivered to the warehouse operator. The purchase price of the grain is the principal amount of the loan extended and the purchase invoice for the grain is the documentation required for extension of the loan."

33. Page 19, by inserting after line 28 the following:

"6A. "Loss" means the amount of a claim held by a seller or depositor against a grain dealer or warehouse operator which has not been recovered through other legal and equitable remedies including the liquidation of assets."

34. By striking page 20, line 16 through page 21, line 12 and inserting the following: "depositors and sellers indemnity fund under section 543A.6. The fund consists of a per-bushel fee on grain sold remitted by licensed grain dealers, licensed warehouse operators, and participating federally licensed grain warehouses; an annual fee charged to and remitted by licensed grain dealers, licensed warehouse operators, and participating federally licensed grain warehouses; sums collected by the commission by legal action on behalf of the fund; and interest, property, or securities acquired through the use of moneys in the fund. The moneys collected under this section and deposited in the fund shall be used exclusively to indemnify depositors and sellers as provided in section 543A.6 and to pay the administrative costs of this chapter.

2. The grain dealer, warehouse operator, or participating federally licensed warehouse shall forward the per-bushel fee to the commission in the manner and using the forms prescribed by the commission. If the per-bushel fee has not been forwarded to the commission by the date required by the commission, the grain dealer, warehouse operator, or participating federally licensed warehouse is subject to an interest penalty for each day the grain dealer, warehouse operator, or participating federally licensed warehouse fails

to forward the fee. Interest shall be simple interest, and shall be the maximum lawful rate of interest for the month the payment was due. If the per-bushel fee has not been forwarded to the commission within thirty days after the payment was due, the grain dealer's or warehouse operator's license or the participating warehouse operator's cooperative agreement shall be suspended. The per-bushel fee shall be collected only once on each bushel of grain.

3. a. All licensed grain dealers, licensed warehouse operators, and participating federally licensed grain warehouses shall annually remit a fee to be deposited into the fund which is determined as follows:

- (1) For class 1 grain dealers, five hundred dollars.
- (2) For class 2 grain dealers, two hundred fifty dollars.
- (3) For warehouse operators or participating federally

licensed grain warehouses:

(a) For intended storage of bulk grain in any quantity less than twenty thousand bushels, forty-two dollars plus seven dollars for each two thousand bushels or fraction thereof in excess of twelve thousand bushels.

(b) For intended storage of bulk grain in any quantity not less than twenty thousand bushels and not more than fifty thousand bushels, seventy dollars plus four and a half dollars for each three thousand bushels or fraction thereof in excess of twenty thousand bushels.

(c) For intended storage of bulk grain in any quantity not less than fifty thousand bushels and not more than seventy thousand bushels, one hundred fifteen dollars plus four and a half dollars for each four thousand bushels or fraction thereof in excess of fifty thousand bushels.

(d) For intended storage of bulk grain in any quantity not less than seventy thousand bushels, one hundred thirty-seven and a half dollars plus two and three-quarters dollars for each five thousand bushels or fraction thereof in excess of seventy thousand bushels.

b. Payment of the required amount shall be made before the grain dealer's or warehouse operator's license is renewed, or before the participating federal licensee's agreement with the commission is ratified.

4. A person who applies for a grain dealer's or warehouse operator's license or a federal licensee who elects to participate in the fund who has not previously paid the full fee required by subsection 3, shall pay that amount before the license is issued or the agreement is ratified.

5. All disbursements from the fund shall be paid by the treasurer of state pursuant to vouchers authorized by the commission.

6. The administrative costs of this chapter shall be paid from the fund after approval of the costs by the board.

Sec. 4. NEW SECTION. 543A.4 INDEMNITY FUND BOARD.

The Iowa grain indemnity fund board is established to advise the commission on matters relating to the fund and to perform the duties provided it in this chapter. The board is composed of the secretary of the department of agriculture or a designee who shall serve as president; the director of the department of insurance or a designee who shall serve as secretary; the state treasurer or a designee who shall serve as treasurer; and two representatives of the grain industry appointed by the governor, subject to confirmation by the senate, one of whom shall be a representative of grain depositors and sellers and one of whom shall be a representative of grain dealers and warehouse operators, each of whom shall be selected from a list of three nominations made by the secretary of agriculture. The term of membership of the grain industry representatives is three years, and the representatives are eligible for reappointment. The grain industry representatives are entitled to forty dollars per diem for each day spent in the performance of the duties of the board, plus actual expenses incurred in the performance of those duties. Three members of the board constitute a quorum, and the affirmative vote of three members is necessary for any

action taken by the board, except that a lesser number may adjourn a meeting. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all the rights and perform all the duties of the board."

35. Page 21, line 13, by striking the figure "543A.4" and inserting the figure "543A.5".

36. Page 21, line 14, by striking the word "commission" and inserting the word "board".

37. Page 21, by striking lines 17 through 29 and inserting the following: "the per-bushel fee required under section 543A.3, subsection 2, and the dealer-warehouse fee required under section 543A.3, subsection 3 that are necessary to maintain the fund within the limits established under this section. Not later than the first day of May of each year, the board shall determine the proposed amount of the per-bushel fee based on the expected volume of grain on which the fee is to be collected and that is likely to be handled under this chapter. The per-bushel fee and the dealer-warehouse fee shall be adjusted on a pro rata basis. The board shall make any changes in the previous year's fees in accordance with chapter 17A. Changes in the fees shall become effective on the following first day of July. The per-bushel fee shall not exceed one-quarter cent per bushel on all grains on which the fee is to be paid. Until the per-bushel fee is adjusted or waived as provided in this section, the per-bushel fee is one-quarter cent on all other grains on which the fee is paid."

38. Page 21, line 31, by striking the word "eight" and inserting the word "six".

39. Page 21, line 32, by inserting before the word "fee" the word "per-bushel".

40. Page 21, by striking line 33 and inserting the following: "under section 543A.3, subsection 2, and the dealer-warehouse fee required under section 543A.3, subsection 3, shall be waived until the board reinstates the fees on a pro rata basis."

41. Page 21, line 34, by striking the words "the commission" and inserting the words "The board".
42. Page 22, line 1, by striking the word "six" and inserting the word "three".
43. Page 22, line 2, by striking the figure "543A.5" and inserting the figure "543A.6".
44. Page 22, line 13, by striking the word "commission" and inserting the word "board".
45. Page 22, line 26, by striking the word "commission" and inserting the word "board".
46. Page 22, line 33, by striking the words "moneys that the depositor" and inserting the following: "a claim which arises on or after the effective date of this Act".
47. Page 22, by striking lines 34 and 35 and inserting the following: "for ninety percent of the loss, as determined under".
48. Page 23, line 1, by inserting after the figure "1" the words ", but not more than one hundred fifty thousand dollars per claimant".
49. Page 23, line 2, by striking the word "eighty" and inserting the word "ninety".
50. Page 23, line 4, by striking the word "eighty" and inserting the word "ninety".
51. Page 23, line 6, by striking the word "eighty" and inserting the word "ninety".
52. Page 23, line 8, by striking the word "commission" and inserting the word "board".
53. Page 23, line 18, by striking the word "commission" and inserting the word "board".
54. Page 24, line 11, by striking the figure "543A.6" and inserting the figure "543A.7".
55. Page 24, line 31, by striking the word "June" and inserting the word "September".
56. By striking page 24, line 35 through page 25, line 1, and inserting the following: "the indemnity fund is liable for claims which arise on or after the effective date of this Act but before October 1, 1986 only if the".

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57. Page 25, line 8, by striking the word "July" and inserting the word "October".

58. Title page, line 3, by inserting after the word "fund" the following: "providing a penalty,".

Filed April 11, 1986 ON THE PART OF THE SENATE: ON THE PART OF THE HOUSE  
HUSAK, CHAIR KOENIGS, CHAIR  
FRAISE MUHLBAUER  
GRATIAS PELLETT  
A. MILLER SKOW  
SOORHOLTZ

*Senate adopted 4/14/86 (p. 1212)*

*House adopted 4/15 (p. 1489)*

SENATE FILE 2116

AN ACT

RELATING TO GRAIN DEALERS AND WAREHOUSES, BY PROVIDING LICENSING REQUIREMENTS, ESTABLISHING A GRAIN DEPOSITORS AND SELLERS INDEMNITY FUND, PROVIDING A PENALTY, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 542.1, subsection 3, Code Supplement 1985, is amended to read as follows:

3. "Grain dealer" means a person who buys during any calendar month five hundred bushels of grain or more from the producers of the grain for purposes of resale, milling, or processing. However, "grain dealer" does not include a producer of grain who is buying grain for the producer's own use as seed or feed; a person solely engaged in buying grain future contracts on the board of trade; a person who purchases grain only for sale in a registered feed; a person who purchases grain for sale in a nonregistered customer-formula feed regulated by chapter 198, who purchases less than a total of fifty thousand bushels of grain annually, and who is also exempt as an incidental warehouse operator under chapter 543; a person engaged in the business of selling agricultural seeds regulated by chapter 199; a person buying grain only as a farm manager; an executor, administrator, trustee, guardian, or

conservator of an estate; a bargaining agent as defined in section 542A.1; or a custom livestock feeder.

Sec. 2. Section 542.1, Code Supplement 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 7. "Seller" means a person who sells grain which the person has produced or caused to be produced to a licensed grain dealer, and includes a person who executes a credit sale contract as a seller.

Sec. 3. Section 542.3, subsections 4, 5, and 7, Code Supplement 1985, is amended to read as follows:

4. In order to receive and retain a class 1 license the following conditions must be satisfied:

a. The grain dealer shall have and maintain a net worth of at least fifty thousand dollars, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 1 grain dealer if the person has a net worth of less than twenty-five thousand dollars. ~~A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise required under this chapter.~~

b. The grain dealer shall submit, as required by the commission, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the commission may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the commission. The grain dealer may elect, however, to submit a financial statement ~~satisfying the requirements of subsection 5, paragraph "b,"~~ that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement

specified in this paragraph, and if a grain dealer makes this election the commission shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 542.9. In addition, the commission shall cause a grain dealer who makes this election to submit to the commission, in a form and manner prescribed by the commission, an interim financial statement no less than once in every three calendar month period. If a grain dealer making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8.

c. The grain dealer shall have and maintain current assets equal to at least ninety percent of current liabilities or provide a deficiency bond or an irrevocable letter of credit under the following conditions:

(1) A grain dealer with current assets equal to at least forty-five percent of current liabilities may provide a deficiency bond or an irrevocable letter of credit of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond or irrevocable letter of credit shall not be used for longer than six consecutive months in a twelve-month period.

(2) A grain dealer with current assets equal to less than forty-five percent of current liabilities may provide a deficiency bond or an irrevocable letter of credit of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond or irrevocable letter of credit shall not be used for longer than thirty consecutive days in a twelve-month period.

~~A bond submitted for purposes of this paragraph shall be in addition to any other bond permitted or required under this chapter.~~

5. In order to receive and retain a class 2 license the following conditions must be satisfied:

a. The grain dealer shall have and maintain a net worth of at least twenty-five thousand dollars, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net deficiency. However, a person shall not be licensed as a class 2 grain dealer if the person has a net worth of less than ten thousand dollars. ~~A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise required under this chapter.~~

b. The grain dealer shall submit, as required by the commission, a financial statement that is accompanied by the report of an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant. ~~However, the commission may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles.~~ An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the commission. The grain dealer may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a grain dealer makes this election the commission shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 542.9. In addition, the commission shall cause a grain dealer who makes this election to submit to the commission, in a form and manner prescribed by the commission, an interim financial statement no less than once in every three calendar month period. If a grain dealer

making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8.

c. The grain dealer shall have and maintain current assets equal to at least ninety percent of current liabilities or provide a deficiency bond or an irrevocable letter of credit under the following conditions:

(1) A grain dealer with current assets equal to at least forty-five percent of current liabilities may provide a deficiency bond or an irrevocable letter of credit of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond or irrevocable letter of credit shall not be used for longer than six consecutive months in a twelve-month period.

(2) A grain dealer with current assets equal to less than forty-five percent of current liabilities may provide a deficiency bond or an irrevocable letter of credit of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond or irrevocable letter of credit shall not be used for longer than thirty consecutive days in a twelve-month period.

~~A bond submitted for purposes of this paragraph shall be in addition to any other bond permitted or required under this chapter.~~

7. a. When the net worth or current ratio of a licensee in good standing is less than that required by this section, the grain dealer shall correct the deficiency or file the ~~necessary additional~~ a deficiency bond or an irrevocable letter of credit within thirty days of written notice by the commission. Unless the deficiency is corrected or the ~~additional~~ deficiency bond or irrevocable letter of credit is filed within thirty days, the grain dealer license shall be suspended.

b. If the commission finds that the welfare of grain producers requires emergency action, and incorporates a finding to that effect in its order, immediate suspension of the a license may be ordered notwithstanding the thirty-day period otherwise allowed by paragraph "a" ~~of this subsection.~~

Sec. 4. Section 542.3, Code Supplement 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A deficiency bond or irrevocable letter of credit filed with the commission pursuant to this section shall not be canceled by the issuer on less than ninety days' notice by certified mail to the commissioner and the principal.

Sec. 5. Section 542.4, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

542.4 PARTICIPATION IN INDEMNITY FUND REQUIRED.

A person licensed to operate as a grain dealer under this chapter shall participate in and comply with the grain depositors and sellers indemnity fund provided in chapter 543A.

Sec. 6. Section 542.9, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The commission may inspect the premises used by any grain dealer in the conduct of the dealer's business at any time, and the books, accounts, records, and papers of every grain dealer which pertain to grain purchases are subject to inspection by the commission during ordinary business hours. The commission shall cause the business premises and books, accounts, records, and papers of every grain dealer to be inspected not less than once during each twelve-month period, but not more than three four times in a twenty-four month period without good cause. ~~However, if a class 1 grain dealer elects to submit the unaudited financial statement under section 542.37, subsection 47, paragraph "b7" the commission shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause. The~~

transporter of grain in transit shall possess bills of lading or other documents covering the grain, and shall present them to any law enforcement officer or to a person designated as an enforcement officer under section 542.13 on demand. If there is good cause to believe that a person is engaged without a license in the business of a grain dealer in this state, the commission may inspect the books, papers, and records of the person which pertain to grain purchases.

Sec. 7. Section 542.10, unnumbered paragraph 2, Code 1985, is amended to read as follows:

The commission may revoke a grain dealer's license upon information without hearing if a grain dealer fails to have ~~sufficient bond on file with the commission, or if a grain dealer fails~~ to submit to inspection.

Sec. 8. Section 542.12, Code 1985, is amended to read as follows:

542.12 CLAIMS -- NOTICE.

Upon revocation, termination, or cancellation of a grain dealer license, any claim for the purchase price of grain against the grain dealer shall be made in writing and filed with the grain dealer and with the surety on the grain dealer bond issuer of a deficiency bond or of an irrevocable letter of credit and with the commission within one hundred twenty days after revocation, termination, or cancellation. Failure to make this timely claim ~~shall relieve~~ relieves the surety issuer and the grain depositors and sellers indemnity fund provided in chapter 543A of all obligations to the claimant. ~~However, this section shall not be construed to reduce below the face amount of the bond then in effect the aggregate liability of the surety to other claimants.~~

Upon revocation of a grain dealer license, the commission shall cause notice of such the revocation to be published once each week for two consecutive weeks in a newspaper of general circulation within the state of Iowa and in a newspaper of general circulation within the county of the grain dealer's principal place of business when that dealer's principal place

of business is located in the state of Iowa. The notice shall state the name and address of the grain dealer, and the effective date of revocation, and the name and address of the surety on the grain dealer bond. The notice shall also state that any claims against the grain dealer shall be made in writing and sent by ordinary mail or delivered personally within one hundred twenty days after revocation to the grain dealer, and the surety on the grain dealer bond to the issuer of a deficiency bond or of an irrevocable letter of credit, and to the commission, and the notice shall state that the failure to make a timely claim does not relieve the grain dealer from liability to the claimant.

Sec. 9. Section 542.15, Code Supplement 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A licensed grain dealer purchasing grain by credit sale contract and who does not submit a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state shall at all times maintain grain, rights in grain, proceeds from the sale of grain, or a combination thereof totaling at least ninety percent of the dealer's obligation for grain purchased by credit sale contract. The required amount shall be evidenced or represented by one or more of the following:

- a. Grain actually held by the dealer in licensed storage facilities.
- b. Rights in grain evidenced or represented by one or more of the following:

- (1) A warehouse receipt issued by a warehouse licensed under chapter 543 or under the United States Warehouse Act, or by other documentation acceptable as evidence of inventory under the United States Warehouse Act.

- (2) Evidence of grain forwarded to another warehouse under provisions of 543.39.

- c. Sufficient proceeds from and of the grain evidenced or represented by one or more of the following:

- (1) Cash on hand or cash held on account in federally or state chartered financial institutions.
- (2) Short term investments held in time accounts with federally or state chartered financial institutions.
- (3) Balances on grain margin accounts.
- (4) Credit sales contracts for grain shipped to a processor, terminal, or recognized grain merchandising entity, less any payment or advance that has been received provided that the price term of the contract remains open.
- (5) Other evidence or proceeds from or of grain acceptable to the commission, including an irrevocable letter of credit.

For the purpose of computing the dollar value of inventories and credit sale obligations, the value of grain shall be figured at the then current market.

A grain dealer shall keep records of credit sale obligations and evidence of grain, rights in grain and the proceeds from or of grain so as to clearly indicate compliance with the requirements of this subsection.

Sec. 10. Section 542.18, subsection 2, Code 1985, is amended to read as follows:

2. As a condition of the granting of a license under this section, the applicant shall file with the commission a bond payable to the state of Iowa with a corporate surety approved by the commission in a penal sum of twenty-five thousand dollars per license, conditioned that the grain seller owns or controls, free of liens, any grain offered for sale. ~~Cancellation of bonds~~ A bond issued by a surety under this section shall meet the requirements of section 542.4 not be canceled by the surety before at least ninety days' notice by certified mail to the commission and the bonded grain seller. The liability of a surety on any bond under this section shall not accumulate for each successive license period during which the bond is in force.

Sec. 11. Section 542.19, subsection 2, Code 1985, is amended to read as follows:

2. If a co-operative agreement is in effect under this section, the bonding indemnification requirements of this chapter may be satisfied by:

a. Filing with the commission evidence of a bond or an irrevocable letter of credit on file with a state or of participation in an indemnity fund in a state with which Iowa has a co-operative agreement as provided for by this section.

b. Such bond Indemnification proceeds shall be co-payable to the state of Iowa for the benefit of sellers of grain under this chapter ~~in Iowa.~~

~~c. The bond shall be in an amount at least equal to the amounts required by this chapter; provided, however, that any bond required under this chapter for any financial deficiency shall be in addition to the bond posted in any other state.~~

Any bond Indemnification proceeds required by this chapter may be made co-payable to any state with whom this state has entered into contracts or agreements as authorized by this section, for the benefit of sellers of grain in that state.

Sec. 12. Section 543.1, subsection 8, Code 1985, is amended to read as follows:

8. "Warehouse operator" means any a person engaged in the business of operating or controlling a warehouse for the storing, shipping, handling or processing of agricultural products, but does not include an incidental warehouse operator.

Sec. 13. Section 543.1, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 23. "Incidental warehouse operator" means a person regulated under chapter 198 whose grain storage capacity does not exceed twenty-five thousand bushels which is used exclusively for grain owned or grain which will be returned to the depositor for use in a feeding operation or as an ingredient in a customer-formula feed, as defined in section 198.1.

Sec. 14. Section 543.2, Code 1985, is amended to read as follows:

543.2 DUTIES AND POWERS OF THE COMMISSION.

The commission may exercise general supervision over the storage, warehousing, classifying according to grade or otherwise, weighing, and certification of agricultural products. The commission may inspect or cause to be inspected any warehouse. Inspections may be made at times and for purposes as the commission determines. The Except as provided in section 543.6, the commission shall cause every licensed warehouse and its contents to be inspected once in every twelve-month period, provided that if a class 1 warehouse operator elects to submit the unaudited financial statement under section 543.67 subsection 47 paragraph "b7" the commission shall cause the warehouse to be inspected twice in every twelve-month period. The commission may require the filing of reports relating to a warehouse or its operation. If upon inspection a deficiency is found to exist as to the quantity or quality of agricultural products stored, as indicated on the warehouse operator's books and records according to official grain standards, the commission may require an employee of the commission to remain at the licensed warehouse and supervise all operations involving agricultural products stored there under this chapter until the deficiency is corrected. The charge for the cost of maintaining an employee of the commission at a warehouse to supervise the correction of a deficiency is one hundred fifty dollars per day.

PARAGRAPH DIVIDED. The commission may make available to the United States government, or any of its agencies, including the commodity credit corporation, the results of inspections made and inspection reports submitted to it by employees of the commission, upon payment to it of charges as determined by the commission, but the charges shall not be less than the actual cost of services rendered, as determined by the commission. The commission may enter into contracts and agreements for such purpose and shall keep a record of all money thus received. All such money shall be paid over to the treasurer of state as miscellaneous receipts. The commission

may classify any warehouse in accordance with its suitability for the storage of agricultural products and shall specify in any license issued for the operation of any a warehouse the only type or types and the quantity of agricultural products which may be exclusively stored in the warehouse. The commission may prescribe, within the limitations of this chapter, the duties of licensed warehouse operators with respect to the care of and responsibility for the contents of licensed warehouses. Grain grades shall be determined under the official grain standards. The commission may from time to time publish data in connection with the administration of this chapter as may be of public interest. The commission shall administer this chapter.

Sec. 15. Section 543.3, subsection 3, Code 1985, is amended to read as follows:

3. When a petition is filed by the commission under subsection 1 the clerk of court shall set a date for hearing on the commission's proposed plan of disposition at a time not less than ten nor more than fifteen days after the date the petition is filed. Copies of the petition, the notice of hearing, and the commission's plan of disposition shall be served upon the licensee and upon the surety-company-issuing the licensee's issuer of a deficiency bond or of an irrevocable letter of credit pursuant to section 543.6 in the manner required for service of an original notice. A delay in effecting service upon the licensee or surety-shall issuer is not be cause for denying the appointment of a receiver and shall is not be grounds for invalidating any action or proceeding in connection therewith with the appointment.

Sec. 16. Section 543.4, subsections 1, 2, 4, 6, and 7, Code 1985, are amended to read as follows:

1. When the commission is appointed as receiver under this chapter the surety-on-the issuer of a deficiency bond or of the licensee an irrevocable letter of credit pursuant to section 543.6 shall be joined as a party defendant by the commission. If required by the court, the surety issuer shall

pay the bond indemnification proceeds or so much thereof as the court finds necessary into the court, and when so paid the surety issuer shall be absolutely discharged from any further liability under the bond or irrevocable letter of credit to the extent of the payment.

2. When appointed as receiver under this chapter the commission is authorized to give notice in the manner specified by the court to persons holding warehouse receipts or other evidence of deposit issued by the licensee to file their claims within one hundred twenty days after the date of appointment. Failure to timely file a claim shall defeat the claim with respect to the surety-bond issuer of a deficiency bond or of an irrevocable letter of credit, grain depositors and sellers indemnity fund created in chapter 543A, and any commodities or proceeds from the sale of commodities, except to the extent of any excess commodities or proceeds of sale remaining after all timely claims are paid in full.

4. The plan of disposition, as approved by the court, shall provide for the distribution of the stored commodities, or the proceeds from the sale of commodities, or the proceeds from any insurance policy, or surety deficiency bond, or any combination thereof or irrevocable letter of credit, less expenses incurred by the commission in connection with the receivership, plus the proceeds from the grain depositors and sellers indemnity fund in an amount determined pursuant to section 543A.3 to depositors on-a-pro-rata-basis as their interests are determined. Distribution shall be without regard to any setoff, counterclaim, or storage lien or charge.

6. The commission ~~shall be~~ is entitled to reimbursement out of commodities or proceeds held in receivership for all expenses incurred as court costs or in handling and disposing of stored commodities, and for all other costs directly attributable to the receivership. The right of reimbursement of the commission ~~shall be~~ is prior to any claims against the commodities or proceeds of sales thereof of commodities, and shall constitute constitutes a claim against the surety a

deficiency bond of-the-licensee or irrevocable letter of credit.

7. ~~In-the-event~~ If the approved plan of disposition requires ~~the-sale-of-commodities,-or-the~~ a distribution of cash proceeds ~~from-the-surety-bond,-or-both,~~ the commission shall submit to the court a proposed plan of distribution of those proceeds. Upon such notice and hearing as may-be required by the court, the court shall accept or modify the proposed plan. When the plan is approved by the court and executed by the commission, the commission shall be discharged and the receivership terminated.

Sec. 17. Section 543.5, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The commission shall ~~from-time-to-time-make-such~~ adopt rules as it ~~may-deem~~ deems necessary for the efficient administration of ~~the-provisions-of~~ this chapter, and may ~~at its-discretion~~ designate an employee or officer of the commission to act for the commission in any details connected with such administration, including the issuance of licenses and approval of warehouse deficiency bonds or irrevocable letters of credit in the name of the commission, but not including matters requiring a public hearing or suspension or revocation of licenses.

Sec. 18. Section 543.6, subsections 4 and 5, Code 1985, are amended to read as follows:

4. In order to receive and retain a class 1 license, the following conditions must be satisfied:

a. The warehouse operator shall have and maintain a net worth of at least ~~fifty-thousand-dollars~~ twenty cents per bushel of warehouse capacity, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 1 warehouse operator if the person has a net worth of less than twenty-five thousand dollars. ~~A-bond-submitted for-purposes-of-this-paragraph-shall-be-in-addition-to-any bond-otherwise-required-under-this-chapter.~~

b. The warehouse operator shall submit, as required by the commission, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the commission may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the commission. The warehouse operator may elect, however, to submit a financial statement ~~satisfying the requirements of subsection 57, paragraph "b,"~~ that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a warehouse operator makes this election the commission shall cause the warehouse operator to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 543.2. In addition, the commission shall cause a warehouse operator who makes this election to submit to the commission, in a form and manner prescribed by the commission, an interim financial statement no less than once in every three calendar month period.

5. In order to receive and maintain a class 2 license, the following conditions must be satisfied:

a. The warehouse operator shall have and maintain a net worth of at least twenty-five-thousand-dollars twenty cents per bushel of warehouse capacity, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 2 warehouse operator if the person has a net worth of less than ten thousand dollars. ~~A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise required under this chapter.~~

b. The warehouse operator shall submit, as required by the commission, a financial statement that is accompanied by the report of an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant. However, the commission may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the commission. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a warehouse operator makes this election the commission shall cause the warehouse to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four month period without good cause, in the manner provided in section 543.2. In addition, the commission shall cause a warehouse operator who makes this election to submit to the commission, in a form and manner prescribed by the commission, an interim financial statement no less than once in every three calendar month period.

Sec. 19. Section 543.6, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A deficiency bond or irrevocable letter of credit filed with the commission pursuant to this section shall not be canceled by the issuer on less than one hundred twenty days' notice by certified mail to the commission and the principal.

Sec. 20. Section 543.11, unnumbered paragraph 1, Code 1985, is amended to read as follows:

1. When the commission determines that a bond filed under this chapter and approved by the commission, is, or has

~~become, insufficient to secure the faithful performance of the obligations of the licensed warehouse operator, or when the commission determines that insurance is not fully provided as required under section 543.15, it may require the licensed warehouse operator to provide additional bond or additional evidence of insurance coverage so that the bond and insurance conform~~ conforms with the requirements of this chapter. If additional insurance is not provided within five ~~thirty~~ days after receipt by the licensee of notice by certified mail, the license of the warehouse operator concerned shall be automatically suspended. If additional insurance is not filed within another ten days, the warehouse license shall be automatically revoked. ~~If additional bond is not provided within thirty days after receiving notice, the warehouse license shall be suspended. If additional bond is not filed within ten days following suspension, the warehouse license shall be automatically revoked.~~ When a license is so revoked, the commission shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of the revocation. The commission shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following the revocation. The notice shall be sent by ordinary mail sent to the last known address of each person having grain in storage as provided in this section subsection.

Sec. 21. Section 543.11, unnumbered paragraph 2, Code 1985, is amended by striking the paragraph and inserting in lieu thereof the following:

2. If the commission determines that the net worth of a licensed warehouse operator is not in compliance with the requirements of section 543.6, the commission shall issue a notice to the warehouse operator and shall suspend the warehouse operator's license if the warehouse operator does not provide evidence of compliance within thirty days of the

issuance of the notice. The commission shall inspect the warehouse at the end of the thirty-day period. If evidence of compliance is not provided within sixty days of the issuance of the notice, the commission shall revoke the warehouse operator's license, and shall again inspect the warehouse. If a license is revoked, the commission shall give notice of the revocation to each holder of an outstanding warehouse receipt and to all known persons who have grain retained in open storage. The revocation notice shall state that the grain must be removed from the warehouse not later than the thirtieth day after the issuance of the revocation notice. The revocation notice shall be sent by ordinary mail to the last known address of each person having grain in storage as provided in this subsection. The commission shall conduct a final inspection of the warehouse at the end of the thirty-day period following the issuance of the revocation notice.

3. When the commission receives notice that a deficiency bond or irrevocable letter of credit is being canceled by the issuer, and determines that upon the cancellation the warehouse operation will not be in compliance with section 543.6, the commission shall suspend the warehouse operator's license if a new deficiency bond or irrevocable letter of credit is not received by the commission within sixty days of receipt by the commission of the notice of cancellation. If a new deficiency bond or irrevocable letter of credit is not received by the commission within thirty days following suspension, the warehouse operator's license shall be revoked. When a license is revoked, the commission shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of the revocation, and shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following revocation. The notice shall be sent by ordinary mail to the last known address of each person having grain in storage as provided in this subsection.

Sec. 22. Section 543.12, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

543.12 PARTICIPATION IN FUND REQUIRED.

A person licensed to operate a warehouse under this chapter shall participate in and comply with the grain depositors and sellers indemnity fund provided in chapter 543A.

Sec. 23. Section 543.13, unnumbered paragraph 1, Code 1985, is amended by striking the paragraph.

Sec. 24. Section 543.13, subsections 1 and 3, Code 1985, are amended by striking the subsections and inserting in lieu thereof the following:

1. A warehouse operator who stores only agricultural products other than bulk grain shall have and maintain a net worth of at least ten percent of the value of the warehouse capacity, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be eligible for a license to store only agricultural products other than bulk grain if the person has a net worth of less than ten thousand dollars.

3. A bond, deficiency bond, or irrevocable letter of credit on agricultural products other than bulk grain shall not be canceled by the issuer on less than one hundred twenty days' notice by certified mail to the commission and the principal. When the commission receives notice from an issuer that it has canceled the bond, deficiency bond, or irrevocable letter of credit on agricultural products other than bulk grain of a warehouse operator, the commission shall automatically suspend the warehouse operator's authorization to store or accept for storage agricultural products other than bulk grain if a new bond, deficiency bond, or irrevocable letter of credit is not received by the commission within sixty days of the issuance of the notice of cancellation. The commission shall conduct an inspection of the licensee's warehouse immediately at the end of the sixty-day period. If

a new bond, deficiency bond, or irrevocable letter of credit is not provided within ninety days of the issuance of the notice of cancellation, the commission shall revoke the warehouse operator's authorization to store or accept for storage agricultural products other than bulk grain. The commission shall conduct a further inspection of the licensee's warehouse after the ninety-day period. When an authorization to store or accept for storage agricultural products other than bulk grain is revoked, the commission shall give notice of the revocation to all known persons who have agricultural products other than bulk grain in storage, and shall notify them that the agricultural products other than bulk grain must be removed from the warehouse not later than one hundred twenty days after the issuance of the notice of cancellation. The revocation notice shall be sent by ordinary mail to the last known address of each person having agricultural products other than bulk grain in storage. The commission shall cause a final inspection of the licensee's warehouse after the end of the one hundred twenty-day period.

Sec. 25. Section 543.14, Code 1985, is amended to read as follows:

543.14 ACTION-ON-BOND NOTICE -- CLAIM.

Any A person injured by the breach of any an obligation of a warehouse operator, for the performance of which a bond on agricultural products other than bulk grain, a deficiency bond, or an irrevocable letter of credit has been given under any of the provisions of this chapter, may sue on such the bond on agricultural products other than bulk grain, deficiency bond, or irrevocable letter of credit in the person's own name in any a court of competent jurisdiction to recover any damages the person may-have has sustained by reason of such the breach.

Upon revocation, termination, or cancellation of a warehouse license, any a claim against the warehouse operator arising under this chapter shall be made in writing with the warehouse operator, and with the surety-on-the-warehouse

issuer of a bond on agricultural products other than bulk grain, a deficiency bond, or of an irrevocable letter of credit, and, if the claim relates to bulk grain, with the commission within one hundred twenty days after revocation, termination, or cancellation. Failure to make a timely claim shall-relieve relieves the surety issuer and, if the claim relates to bulk grain, the grain depositors and sellers indemnity fund provided in chapter 543A of all obligations to the claimant, however, this section shall not be construed to reduce the aggregate liability of the surety to other claimants below the face amount of the bond then in effect.

Upon revocation of a warehouse license, the commission shall cause notice of such the revocation to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state. The notice shall state the name and address of the warehouse operator, and the effective date of revocation, and the name and address of the surety on the warehouse bond. The notice shall also state that any claims against the warehouse operator shall be made in writing and sent by ordinary mail to the warehouse operator, and to the surety on the warehouse bond issuer of a bond on agricultural products other than bulk grain, deficiency bond, or of an irrevocable letter of credit, and to the commission within one hundred twenty days after revocation, and the notice shall state that the failure to make a timely claim does not relieve the warehouse operator from liability to the claimant. The provisions of this This paragraph shall does not apply if a receiver is appointed as provided in this chapter pursuant to a petition which is filed by the commission prior to the expiration of one hundred twenty days after revocation, termination, or cancellation of the license.

Sec. 26. Section 543.15, unnumbered paragraph 1, Code 1985, is amended to read as follows:

All agricultural products in storage in a licensed warehouse, ~~or a warehouse operated under temporary permit as provided in this chapter,~~ and all agricultural products which have been deposited temporarily in a licensed warehouse pending storage or for purposes other than storage, shall be kept fully insured by the warehouse operator for the current value of such the agricultural products against loss by fire, inherent explosion, or windstorm. The insurance shall be carried in an insurance company or companies authorized to do business in this state, and evidence of such insurance coverage in a form to be approved by the commission shall be filed with the commission. No insurance policy shall be canceled by the insurance company on less than fifteen sixty days' notice by certified mail to the commission and the principal unless such the policy is being replaced with another policy and evidence of the new policy is filed with the commission at the time of cancellation of the policy on file. The insurance shall be provided by, and carried in the name of, the warehouse operator. Claimants against such the insurance shall have precedence in the following order:

Sec. 27. Section 543.17, subsection 4, Code 1985, is amended to read as follows:

4. All bulk grain whether open storage or having been placed on warehouse receipt shall ~~be~~ is covered by the warehouse operator's bond as required under the provisions of this chapter grain depositors and sellers indemnity fund created in chapter 543A.

Sec. 28. Section 543.18, subsection 3, Code 1985, is amended to read as follows:

3. A statement that the receipt is issued subject to the Iowa bonded warehouse Act and the rules and regulations prescribed thereunder pursuant to the Act.

Sec. 29. Section 543.34, Code 1985, is amended to read as follows:

543.34 ~~USE-OF-TERM-"BONDED-WAREHOUSE"~~ DISPLAY OF LICENSE.

~~Upon the filing, with the approval by the commission, of a bond, in compliance with this chapter, for the conduct of a warehouse, such warehouse may be designated as "bonded" but no warehouse shall be designated as "bonded" and no name or description conveying the impression that it is so bonded, shall be used, unless a bond, as provided for in section 543.13, has been approved by the commission and is uncanceled and on file with the commission, nor unless the license issued under this chapter for the conduct of such warehouse remains in effect. Every warehouse operator's license issued under the provisions of this chapter shall be conspicuously displayed in the office of the warehouse for the operation of which the license has been issued.~~

Sec. 30. Section 543.39, subsection 2, Code 1985, is amended to read as follows:

2. ~~At such time as~~ When the warehouse operator may begin to use the additional facilities described in this section, the operator must ~~furnish additional bond acceptable to the commission~~ have sufficient net worth under 543.6 or provide a deficiency bond or an irrevocable letter of credit to cover the increase in the operator's gross capacity.

Sec. 31. NEW SECTION. 543A.1 DEFINITIONS.

1. "Board" means the Iowa grain indemnity fund board created in section 543A.4.

2. "Commission" means the Iowa state commerce commission.

3. "Depositor" means a person who deposits grain in a warehouse for storage, handling, or shipment, or who is the owner or legal holder of an outstanding warehouse receipt, or who is lawfully entitled to possession of the grain.

4. "Fund" means the grain depositors and sellers indemnification fund created in section 543A.3.

5. "Grain" means wheat, corn, oats, barley, rye, flaxseed, field peas, soybeans, grain sorghums, spelt, and similar agricultural products, as defined in the Grain Standards Act, but does not include agricultural products other than bulk grain.

5A. "Grain bank" means grain which is deposited in a warehouse until removed for the personal use of the depositor.

5B. "Grain sold" means grain which crosses the scales of a grain dealer or warehouse operator other than for grain bank storage, and other grain purchased by a grain dealer. "Grain sold" includes the pledge or other encumbrance of grain as security for a loan extended under a federal price support loan program. The date of sale of grain which is security for a loan extended under a federal price support loan program is the date the grain is delivered to the warehouse operator. The purchase price of the grain is the principal amount of the loan extended and the purchase invoice for the grain is the documentation required for extension of the loan.

6. "Licensed grain dealer" means a person who has obtained a license to engage in the business of a grain dealer pursuant to section 542.3.

7. "Licensed warehouse operator" means the same as in section 543.1.

7A. "Loss" means the amount of a claim held by a seller or depositor against a grain dealer or warehouse operator which has not been recovered through other legal and equitable remedies including the liquidation of assets.

8. "Seller" means a person who sells grain which the person has produced or caused to be produced to a licensed grain dealer, and includes a person who executes a credit sale contract as a seller.

Sec. 32. NEW SECTION. 543A.2 PERSONS PARTICIPATING IN FUND.

All licensed grain dealers and licensed warehouse operators shall participate in the fund. In addition, a grain warehouse licensed under the United States Warehouse Act, 7 U.S.C. 241, may participate in the fund and be subject to this chapter if a cooperative agreement exists both between the federal agency and the commission and between the federal licensee and the commission. The agreement between the commission and the federal licensee shall be ratified each year the federal

licensee elects to participate in the fund. A participating federally licensed grain warehouse shall meet the minimum net worth requirements of section 543.6.

Sec. 33. NEW SECTION. 543A.3 GRAIN DEPOSITORS AND SELLERS INDEMNITY FUND.

1. The grain depositors and sellers indemnity fund is created in the state treasury. The general fund of the state is not liable for claims presented against the grain depositors and sellers indemnity fund under section 543A.6. The fund consists of a per-bushel fee on grain sold remitted by licensed grain dealers, licensed warehouse operators, and participating federally licensed grain warehouses; an annual fee charged to and remitted by licensed grain dealers, licensed warehouse operators, and participating federally licensed grain warehouses; sums collected by the commission by legal action on behalf of the fund; and interest, property, or securities acquired through the use of moneys in the fund. The moneys collected under this section and deposited in the fund shall be used exclusively to indemnify depositors and sellers as provided in section 543A.6 and to pay the administrative costs of this chapter.

2. The grain dealer, warehouse operator, or participating federally licensed warehouse shall forward the per-bushel fee to the commission in the manner and using the forms prescribed by the commission. If the per-bushel fee has not been forwarded to the commission by the date required by the commission, the grain dealer, warehouse operator, or participating federally licensed warehouse is subject to an interest penalty for each day the grain dealer, warehouse operator, or participating federally licensed warehouse fails to forward the fee. Interest shall be simple interest, and shall be the maximum lawful rate of interest for the month the payment was due. If the per-bushel fee has not been forwarded to the commission within thirty days after the payment was due, the grain dealer's or warehouse operator's license or the participating warehouse operator's cooperative agreement shall

be suspended. The per-bushel fee shall be collected only once on each bushel of grain.

3. a. All licensed grain dealers, licensed warehouse operators, and participating federally licensed grain warehouses shall annually remit a fee to be deposited into the fund which is determined as follows:

- (1) For class 1 grain dealers, five hundred dollars.
- (2) For class 2 grain dealers, two hundred fifty dollars.
- (3) For warehouse operators or participating federally

licensed grain warehouses:

- (a) For intended storage of bulk grain in any quantity less than twenty thousand bushels, forty-two dollars plus seven dollars for each two thousand bushels or fraction thereof in excess of twelve thousand bushels.
- (b) For intended storage of bulk grain in any quantity not less than twenty thousand bushels and not more than fifty thousand bushels, seventy dollars plus four and a half dollars for each three thousand bushels or fraction thereof in excess of twenty thousand bushels.
- (c) For intended storage of bulk grain in any quantity not less than fifty thousand bushels and not more than seventy thousand bushels, one hundred fifteen dollars plus four and a half dollars for each four thousand bushels or fraction thereof in excess of fifty thousand bushels.
- (d) For intended storage of bulk grain in any quantity not less than seventy thousand bushels, one hundred thirty-seven and a half dollars plus two and three-quarters dollars for each five thousand bushels or fraction thereof in excess of seventy thousand bushels.

b. Payment of the required amount shall be made before the grain dealer's or warehouse operator's license is renewed, or before the participating federal licensee's agreement with the commission is ratified.

4. A person who applies for a grain dealer's or warehouse operator's license or a federal licensee who elects to participate in the fund who has not previously paid the full

fee required by subsection 3, shall pay that amount before the license is issued or the agreement is ratified.

5. All disbursements from the fund shall be paid by the treasurer of state pursuant to vouchers authorized by the commission.

6. The administrative costs of this chapter shall be paid from the fund after approval of the costs by the board.

Sec. 34. NEW SECTION. 543A.4 INDEMNITY FUND BOARD.

The Iowa grain indemnity fund board is established to advise the commission on matters relating to the fund and to perform the duties provided it in this chapter. The board is composed of the secretary of the department of agriculture or a designee who shall serve as president; the director of the department of insurance or a designee who shall serve as secretary; the state treasurer or a designee who shall serve as treasurer; and two representatives of the grain industry appointed by the governor, subject to confirmation by the senate, one of whom shall be a representative of grain depositors and sellers and one of whom shall be a representative of grain dealers and warehouse operators, each of whom shall be selected from a list of three nominations made by the secretary of agriculture. The term of membership of the grain industry representatives is three years, and the representatives are eligible for reappointment. The grain industry representatives are entitled to forty dollars per diem for each day spent in the performance of the duties of the board, plus actual expenses incurred in the performance of those duties. Three members of the board constitute a quorum, and the affirmative vote of three members is necessary for any action taken by the board, except that a lesser number may adjourn a meeting. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all the rights and perform all the duties of the board.

Sec. 35. NEW SECTION. 543A.5 ADJUSTMENTS TO FEE.

1. The board shall review annually the debits of and credits to the grain depositors and sellers indemnity fund

created in section 543A.3 and shall make any adjustments in the per-bushel fee required under section 543A.3, subsection 2, and the dealer-warehouse fee required under section 543A.3, subsection 3 that are necessary to maintain the fund within the limits established under this section. Not later than the first day of May of each year, the board shall determine the proposed amount of the per-bushel fee based on the expected volume of grain on which the fee is to be collected and that is likely to be handled under this chapter. The per-bushel fee and the dealer-warehouse fee shall be adjusted on a pro rata basis. The board shall make any changes in the previous year's fees in accordance with chapter 17A. Changes in the fees shall become effective on the following first day of July. The per-bushel fee shall not exceed one-quarter cent per bushel on all grains on which the fee is to be paid. Until the per-bushel fee is adjusted or waived as provided in this section, the per-bushel fee is one-quarter cent on all other grains on which the fee is paid.

2. If, at the end of any fiscal year, the assets of the fund exceed six million dollars, less any encumbered balances or pending or unsettled claims, the per-bushel fee required under section 543A.3, subsection 2, and the dealer-warehouse fee required under section 543A.3, subsection 3, shall be waived until the board reinstates the fees on a pro rata basis. The board shall reinstate the fee if the assets of the fund, less any unencumbered balances or pending or unsettled claims, are three million dollars or less.

Sec. 36. NEW SECTION. 543A.6 CLAIMS AGAINST FUND.

1. When a depositor or seller has made a demand for settlement of an obligation concerning grain on which a fee was required to be remitted under section 543A.3 and the licensed grain dealer or licensed warehouse operator has failed to honor the demand, the depositor or seller, after providing the commission with evidence of the demand and the dishonoring of the demand, may file a claim with the commission for indemnification of damages from the grain

depositors and sellers indemnity fund to be measured as follows:

a. The board shall establish the dollar value of the loss incurred by a depositor holding a warehouse receipt or a scale weight ticket for grain that the depositor delivered to the licensed warehouse operator, and by a seller who has delivered grain sold on a credit-sale contract to a licensed grain dealer. The value shall be based on the average fair market price being paid to producers by the three licensed grain dealers nearest the warehouse operator or grain dealer for the grain on the earlier of the date of license suspension or the date on which the commission received notice that the receipt, scale weight ticket, or credit-sale contract was dishonored by the licensed warehouse operator or licensed grain dealer. All depositors filing claims under this section shall be bound by the value determined by the board.

b. The dollar value of the loss incurred by a seller who has sold grain or delivered grain for sale or exchange and who is a creditor of the licensed grain dealer for all or part of the value of the grain shall be based on the amount stated on the obligation on the date of the sale.

2. The grain depositors and sellers indemnity fund is liable to a depositor or seller for a claim which arises on or after the effective date of this Act for ninety percent of the loss, as determined under subsection 1, but not more than one hundred fifty thousand dollars per claimant. The aggregate amount recovered by a depositor or seller under all remedies shall not exceed ninety percent of the value of the loss. If the moneys recovered by a depositor or seller under all remedies exceed ninety percent of the value of the loss, the depositor or seller shall reimburse the fund in the amount that exceeds ninety percent of the value of the loss.

3. The board shall determine the validity of all claims presented against the fund. A claim filed under this section for losses on grain other than grain stored in a warehouse operated by a licensed warehouse operator is not valid unless

the seller has made a demand for settlement of the obligation within twelve months after the grain is priced or delivered for sale, whichever occurs later except that if the notice provided in section 542.12 has been given, the seller must make the demand for settlement of the obligation within the one hundred twenty-day period. A depositor or seller whose claim has been refused by the board may appeal the refusal to either the district court of Polk county or the district court of the county in which the depositor or seller resides. The commission shall provide for payment from the fund to a depositor or seller whose claim has been found to be valid.

4. If at any time the fund does not contain sufficient assets to pay valid claims, the commission shall hold those claims for payment until the fund again contains sufficient assets. Claims against the fund shall be paid in the order in which they are found to be valid. However, no claims shall be paid before the fund initially reaches one million dollars.

5. If a depositor or seller files an action for legal or equitable remedies in a state or federal court having jurisdiction in those matters that includes a claim against grain upon which the depositor or seller may file a claim against the fund at a later date, the depositor or seller shall also file with the commission a copy of the action filed with the court. In the event of payment of a loss under this section, the commission shall be subrogated to the extent of the amount of any payments to all rights, powers, privileges, and remedies of the depositor or seller against any person regarding the loss. The depositor or seller shall render all necessary assistance to aid the commission in securing the rights granted in this section. No action or claim initiated by a depositor or seller and pending at the time of payment from the fund shall be compromised or settled without the consent of the commission.

Sec. 37. NEW SECTION. 543A.7 NO OBLIGATION OF STATE.

This chapter does not imply any guarantee or obligation on the part of the state of Iowa, or any of its agencies,

employees, or officials, either elective or appointive, in respect of any agreement or undertaking to which this chapter relates.

Sec. 38. Licensed grain dealers and licensed warehouse operators shall maintain a bond in an amount as required by the law in effect on January 1, 1986, or an irrevocable letter of credit in the amount of the bond, until the grain dealer or warehouse operator has qualified for a license under the license requirements specified in this Act. The license of a grain dealer or warehouse operator who has received notice of the cancellation of the required bond shall not be revoked if prior to revocation, the licensee satisfies the license requirements of this Act or, if the licensee is in compliance with the license requirements in effect on January 1, 1986, the licensee provides an irrevocable letter of credit in the amount of the bond to the commission. However, all licensed grain dealers and licensed warehouse operators shall satisfy the license requirements of this Act on or by September 30, 1986. Failure to meet the requirements by that date shall result in the revocation or nonrenewal of their license.

Sec. 39. Notwithstanding the provisions of section 543A.5, the indemnity fund is liable for claims which arise on or after the effective date of this Act but before October 1, 1986 only if the claim is against a licensed grain dealer or licensed warehouse operation who has complied with section 30 of this Act by maintaining the bond or irrevocable letter of credit, by qualifying for a license under the requirements imposed by this Act, or by providing the irrevocable letter of credit and meeting the January 1, 1986 license requirements. For claims arising on or after October 1, 1986, the indemnity fund is liable for claims against grain dealers or warehouse operators who have satisfied the licensing requirements of this Act or against a participating federally licensed grain warehouse who has satisfied 543A.2.

Sec. 40. This Act, being deemed of immediate importance, takes effect from and after its publication in the

Marshalltown Times-Republican, a newspaper published in Marshalltown, Iowa, and in The Belle Plaine Union, a newspaper published in Belle Plaine, Iowa.

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ROBERT T. ANDERSON  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2116, Seventy-first General Assembly.

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K. MARIE THAYER  
Secretary of the Senate

Approved April 28, 1986

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TERRY E. BRANSTAD  
Governor