

*Original of 1st*

Senate File 372  
(Reassigned)

AGRICULTURE: Husak, Chair: Frause and Hester <sup>er</sup>

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SENATE FILE 372  
BY COMMITTEE ON AGRICULTURE  
*Approved (3/6/87)*

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

**A BILL FOR**

1 An Act relating to the grain indemnity fund, by further defining  
2 the term "grain dealer", providing minimum net worth  
3 requirements for grain dealers, limiting financial reporting  
4 by grain dealers and warehouse operators, eliminating credit  
5 sale contracts from its protection, providing for distribution  
6 of receivership assets by excluding proceeds of the fund,  
7 raising minimum net worth requirements for warehouse  
8 operators, and providing definitions, eliminating  
9 participation by federally licensed warehouses, and providing  
10 a penalty for late payment of fees, eligibility standards, for  
11 the appointment of additional members to the Iowa grain  
12 indemnity fund board, the adjustment of fees, a procedure for  
13 determining the value of losses, requirements for recovery  
14 from the fund, and the retroactive applicability of certain of  
15 its provisions.

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

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3253  
sections 1 thru 4

1 Section 1. Section 542.1, subsection 3, Code 1987, is  
2 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 who  
11 purchases grain for sale in a nonregistered customer-formula  
12 feed regulated by chapter 198, who purchases less than a total  
13 of fifty thousand bushels of grain annually from producers,  
14 and who is also exempt as an incidental warehouse operator  
15 under chapter 543; a person engaged in the business of selling  
16 agricultural seeds regulated by chapter 199; a person buying  
17 grain only as a farm manager; an executor, administrator,  
18 trustee, guardian, or conservator of an estate; a bargaining  
19 agent as defined in section 542A.1; or a custom livestock  
20 feeder.

21 Sec. 2. Section 542.3, subsection 4, paragraph a, Code  
22 1987, is amended to read as follows:

23 a. The grain dealer shall have and maintain a minimum net  
24 worth of-at-least-fifty-thousand-dollars, or which shall be  
25 determined on the basis of all grain purchased the previous  
26 fiscal year. If the person has not held a grain dealer's  
27 license during the previous fiscal year, the minimum net worth  
28 shall be determined on the basis of projected grain purchases  
29 for the following fiscal year. If the class 1 grain dealer or  
30 person applying for a grain dealer's license fails to have or  
31 maintain the necessary net worth the person shall maintain a  
32 deficiency under an irrevocable letter of credit in the  
33 amount of two thousand dollars for each one thousand dollars  
34 or fraction thereof of net worth deficiency. However, a  
35 person shall not be licensed as a class 1 grain dealer if the

1 person has a net worth of less than twenty-five-thousand  
2 dollars one-half of the minimum required net worth. The  
3 minimum required net worth shall be determined as follows:

4 (1) If the total purchased is more than five hundred  
5 thousand dollars, but not more than seven hundred fifty  
6 thousand dollars, the minimum net worth required shall be  
7 fifty thousand dollars.

8 (2) If the total purchased is more than seven hundred  
9 fifty thousand dollars, but not more than one million dollars,  
10 the minimum net worth required shall be sixty-two thousand  
11 five hundred dollars.

12 (3) If the total purchased is more than one million  
13 dollars, but not more than one million five hundred thousand  
14 dollars, the minimum net worth required shall be seventy-five  
15 thousand dollars.

16 (4) If the total purchased is more than one million five  
17 hundred thousand dollars, but not more than two million  
18 dollars, the minimum net worth required shall be eighty-seven  
19 thousand five hundred dollars.

20 (5) If the total purchased is more than two million  
21 dollars, but not more than three million dollars, the minimum  
22 net worth required shall be one hundred thousand dollars.

23 (6) If the total purchased is more than three million  
24 dollars, but not more than four million seven hundred fifty  
25 thousand dollars, the minimum net worth required shall be one  
26 hundred twelve thousand five hundred dollars.

27 (7) If the total purchased is more than four million seven  
28 hundred fifty thousand dollars, but not more than six million  
29 dollars, the minimum net worth required shall be one hundred  
30 twenty-five thousand dollars.

31 (8) If the total purchased is more than six million  
32 dollars, but not more than nine million five hundred thousand  
33 dollars, the minimum net worth required shall be one hundred  
34 thirty-seven thousand five hundred dollars.

35 (9) If the total purchased is more than nine million five

1 hundred thousand dollars, the minimum net worth required shall  
2 be one hundred fifty thousand dollars.

3 Sec. 3. Section 542.3, subsection 4, paragraph b, Code  
4 1987, is amended to read as follows:

5 b. The grain dealer shall submit, as required by the  
6 department, a financial statement that is accompanied by an  
7 unqualified opinion based upon an audit performed by a  
8 certified public accountant licensed in this state. However,  
9 the department may accept a qualification in an opinion that  
10 is unavoidable by any audit procedure that is permitted under  
11 generally accepted accounting principles. An opinion that is  
12 qualified because of a limited audit procedure or because the  
13 scope of an audit is limited shall not be accepted by the  
14 department. The department shall not require that a grain  
15 dealer submit more than one such unqualified opinion per year.

16 The grain dealer may elect, however, to submit a financial  
17 statement that is accompanied by the report of a certified  
18 public accountant licensed in this state that is based upon a  
19 review performed by the certified public accountant in lieu of  
20 the audited financial statement specified in this paragraph,  
21 and if a grain dealer makes this election the department shall  
22 cause the grain dealer to be inspected not less than twice  
23 during each twelve-month period, but not more than five times  
24 in a twenty-four month period without good cause, in the  
25 manner provided in section 542.9. In addition, the department  
26 shall cause a grain dealer who makes this election to submit  
27 to the department, in a form and manner prescribed by the  
28 department, an interim financial statement no less than once  
29 in every three-calendar-month period. However, the department  
30 shall not require that a grain dealer submit more than one  
31 such report of a certified public accountant per year that is  
32 based upon a review performed in lieu of the audited financial  
33 statement. If a grain dealer making the election engages in  
34 credit sale contracts, the grain dealer shall also comply with  
35 the provisions of section 542.15, subsection 8.

1 Sec. 4. Section 542.3, subsection 5, paragraph b, Code  
2 1987, is amended to read as follows:

3 b. The grain dealer shall submit, as required by the  
4 department, a financial statement that is accompanied by an  
5 unqualified opinion based upon an audit performed by a  
6 certified public accountant licensed in this state. However,  
7 the department may accept a qualification in an opinion that  
8 is unavoidable by any audit procedure that is permitted under  
9 generally accepted accounting principles. An opinion that is  
10 qualified because of a limited audit procedure or because the  
11 scope of an audit is limited shall not be accepted by the  
12 department. The department shall not require that a grain  
13 dealer submit more than one such unqualified opinion per year.  
14 The grain dealer may elect, however, to submit a financial  
15 statement that is accompanied by the report of a certified  
16 public accountant licensed in this state that is based upon a  
17 review performed by the certified public accountant in lieu of  
18 the audited financial statement specified in this paragraph,  
19 and if a grain dealer makes this election the department shall  
20 cause the grain dealer to be inspected not less than twice  
21 during each twelve-month period, but not more than five times  
22 in a twenty-four month period without good cause, in the  
23 manner provided in section 542.9. In addition, the department  
24 shall cause a grain dealer who makes this election to submit  
25 to the department, in a form and manner prescribed by the  
26 department, an interim financial statement no less than once  
27 in every three-calendar-month period. However, the department  
28 shall not require that a warehouse operator submit more than  
29 one such report of a certified public accountant per year that  
30 is based upon a review performed in lieu of the audited  
31 financial statement. If a grain dealer making the election  
32 engages in credit sale contracts, the grain dealer shall also  
33 comply with the provisions of section 542.15, subsection 8.

34 Sec. 5. Section 542.15, subsection 8, Code 1987, is  
35 amended by striking the subsection and inserting in lieu

1 thereof the following:

2 8. A licensed grain dealer who purchases grain by credit  
3 sale contract shall obtain from the seller a signed acknow-  
4 ledgement stating that the seller has received notice that  
5 grain purchased by credit sale contract is not protected by  
6 the grain depositors and sellers indemnity fund. The form for  
7 the acknowledgement shall be prescribed by the department, and  
8 the licensed grain dealer, the seller, and the department  
9 shall each be provided a copy.

10 Sec. 6. Section 543.4, subsection 4, Code 1987, is amended  
11 to read as follows:

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, deficiency bond, or irrevocable  
16 letter of credit, less expenses incurred by the department in  
17 connection with the receivership, ~~plus the proceeds from the~~  
18 ~~grain depositors and sellers indemnity fund in an amount~~  
19 ~~determined pursuant to section 543A-3~~ to depositors as their  
20 interests are determined. Distribution shall be without  
21 regard to any setoff, counterclaim, or storage lien or charge.

22 Sec. 7. Section 543.6, subsection 4, paragraphs a and b,  
23 Code 1987, are amended to read as follows:

24 a. The warehouse operator shall have and maintain a net  
25 worth of at least twenty twenty-five cents per bushel of  
26 warehouse capacity, or maintain a deficiency bond or an  
27 irrevocable letter of credit in the amount of two thousand  
28 dollars for each one thousand dollars or fraction thereof of  
29 net worth deficiency. However, a person shall not be licensed  
30 as a class 1 warehouse operator if the person has a net worth  
31 of less than twenty-five thousand dollars.

32 b. The warehouse operator shall submit, as required by the  
33 department, a financial statement that is accompanied by an  
34 unqualified opinion based upon an audit performed by a  
35 certified public accountant licensed in this state. However,

1 the department may accept a qualification in an opinion that  
2 is unavoidable by any audit procedure that is permitted under  
3 generally accepted accounting principles. An opinion that is  
4 qualified because of a limited audit procedure or because the  
5 scope of an audit is limited shall not be accepted by the  
6 department. The department shall not require that a warehouse  
7 operator submit more than one such unqualified opinion per  
8 year. The warehouse operator may elect, however, to submit a  
9 financial statement that is accompanied by the report of a  
10 certified public accountant licensed in this state that is  
11 based upon a review performed by the certified public  
12 accountant in lieu of the audited financial statement  
13 specified in this paragraph, and if a warehouse operator makes  
14 this election the department shall cause the warehouse to be  
15 inspected not less than twice during each twelve-month period,  
16 but not more than five times in a twenty-four month period  
17 without good cause, in the manner provided in section 543.2.  
18 In addition, the department shall cause a warehouse operator  
19 who makes this election to submit to the department, in a form  
20 and manner prescribed by the department, an interim financial  
21 statement no less than once in every three-calendar-month  
22 period. However, the department shall not require that a  
23 warehouse operator submit more than one such report of a  
24 certified public accountant per year that is based upon a  
25 review performed in lieu of the certified financial statement.

26 Sec. 8. Section 543.6, subsection 5, paragraphs a and b,  
27 Code 1987, are amended to read as follows:

28 a. The warehouse operator shall have and maintain a net  
29 worth of at least twenty twenty-five cents per bushel of  
30 warehouse capacity, or maintain a deficiency bond or an  
31 irrevocable letter of credit in the amount of two thousand  
32 dollars for each one thousand dollars or fraction thereof of  
33 net worth deficiency. However, a person shall not be licensed  
34 as a class 2 warehouse operator if the person has a net worth  
35 of less than ten thousand dollars.

1 b. The warehouse operator shall submit, as required by the  
2 department, a financial statement that is accompanied by an  
3 unqualified opinion based upon an audit performed by a  
4 certified public accountant licensed in this state. However,  
5 the department may accept a qualification in an opinion that  
6 is unavoidable by any audit procedure that is permitted under  
7 generally accepted accounting principles. An opinion that is  
8 qualified because of a limited audit procedure or because the  
9 scope of an audit is limited shall not be accepted by the  
10 department. The department shall not require that a warehouse  
11 operator submit more than one such unqualified opinion per  
12 year. The warehouse operator may elect, however, to submit a  
13 financial statement that is accompanied by the report of a  
14 certified public accountant licensed in this state that is  
15 based upon a review performed by the certified public  
16 accountant in lieu of the audited financial statement  
17 specified in this paragraph, and if a warehouse operator makes  
18 this election the department shall cause the warehouse to be  
19 inspected not less than twice during each twelve-month period,  
20 but not more than five times in a twenty-four month period  
21 without good cause, in the manner provided in section 543.2.  
22 In addition, the department shall cause a warehouse operator  
23 who makes this election to submit to the department, in a form  
24 and manner prescribed by the department, an interim financial  
25 statement no less than once in every three-calendar-month  
26 period. However, the department shall not require that a  
27 warehouse operator submit more than one such report of a  
28 certified public accountant per year that is based upon a  
29 review performed in lieu of the qualified financial statement.

30 Sec. 9. Section 543A.1, subsections 3 and 4, Code 1987,  
31 are amended to read as follows:

32 3. "Depositor" means a person who deposits grain in a  
33 state warehouse for storage, handling, or shipment, or who is  
34 the owner or legal holder of an outstanding warehouse receipt  
35 issued by a state warehouse, or who is lawfully entitled to

1 possession of the grain.

2 4. "Fund" means the grain depositors and sellers  
3 ~~indemnification~~ indemnity fund created in section 543A.3.

4 Sec. 10. Section 543A.1, subsections 6 and 7, Code 1987,  
5 are amended by striking the subsections, inserting in lieu  
6 thereof the following, and renumbering subsequent subsections:

7 6. "Assessable grain" means all grain to which a licensed  
8 grain dealer obtains title except if title transfers by credit  
9 sale contract, and all grain received for storage by a  
10 licensed warehouse operator.

11 Sec. 11. Section 543A.1, subsection 11, Code 1987, is  
12 amended to read as follows:

13 ~~11~~ 10. "Seller" means a person who sells grain which the  
14 person has produced or caused to be produced to a licensed  
15 grain dealer, ~~and includes~~ but excludes a person who executes  
16 a credit sale contract as a seller.

17 Sec. 12. Section 543A.2, Code 1987, is amended to read as  
18 follows:

19 543A.2 PERSONS PARTICIPATING IN FUND.

20 All licensed grain dealers and licensed warehouse operators  
21 shall participate in the fund. ~~In addition, a grain warehouse  
22 licensed under the United States Warehouse Act, 7 U.S.C. 2417  
23 may participate in the fund and be subject to this chapter if  
24 a cooperative agreement exists both between the federal agency  
25 and the department and between the federal licensee and the  
26 department. The agreement between the department and the  
27 federal licensee shall be ratified each year the federal  
28 licensee elects to participate in the fund. A participating  
29 federally licensed grain warehouse shall meet the minimum net  
30 worth requirements of section 543.6.~~

31 Sec. 13. Section 543A.3, subsections 1 and 2, Code 1987,  
32 are amended to read as follows:

33 1. The grain depositors and sellers indemnity fund is  
34 created in the state treasury. The general fund of the state  
35 is not liable for claims presented against the grain

1 depositors and sellers indemnity fund under section 543A.6.  
2 The fund consists of a per-bushel fee on assessable grain sold  
3 remitted by licensed grain dealers, and licensed warehouse  
4 operators, ~~and participating federally licensed grain~~  
5 ~~warehouses~~; an annual fee charged to and remitted by licensed  
6 grain dealers, and licensed warehouse operators, ~~and~~  
7 ~~participating federally licensed grain warehouses~~; sums  
8 collected by the department by legal action on behalf of the  
9 fund; and interest, property, or securities acquired through  
10 the use of moneys in the fund. The moneys collected under  
11 this section and deposited in the fund shall be used  
12 exclusively to indemnify depositors and sellers as provided in  
13 section 543A.6 and to pay the administrative costs of this  
14 chapter.

15 2. The grain dealer, or warehouse operator, ~~or~~  
16 ~~participating federally licensed warehouse~~ shall forward the  
17 per-bushel fee to the department in the manner and using the  
18 forms prescribed by the department. If the per-bushel fee has  
19 ~~not been forwarded to~~ received by the department by the date  
20 required by the department, the grain dealer, or warehouse  
21 operator, ~~or participating federally licensed warehouse~~ is  
22 subject to an ~~interest~~ a penalty of ten dollars for each day  
23 the grain dealer, or warehouse operator, ~~or participating~~  
24 ~~federally licensed warehouse fails to forward the fee is~~  
25 delinquent. ~~Interest shall be simple interest, and shall be~~  
26 ~~the maximum lawful rate of interest for the month the payment~~  
27 ~~was due~~. If the per-bushel fee has not been forwarded to  
28 received by the department within thirty days after the  
29 payment was due, the grain dealer's or warehouse operator's  
30 license ~~or the participating warehouse operator's cooperative~~  
31 agreement shall be suspended. The per-bushel fee shall be  
32 collected only once on each bushel of grain.

33 Sec. 14. Section 543A.3, subsection 3, paragraph a,  
34 unnumbered paragraph 1, Code 1987, is amended to read as  
35 follows:

1 All licensed grain dealers, and licensed warehouse  
2 operators, ~~and participating federally licensed grain~~  
3 warehouses shall annually remit a fee to be deposited into the  
4 fund which is determined as follows:

5 Sec. 15. Section 543A.3, subsection 3, paragraph b, Code  
6 1987, is amended to read as follows:

7 b. Payment of the required amount shall be made before the  
8 grain dealer's or warehouse operator's license is renewed, ~~or~~  
9 ~~before the participating federal licensee's agreement with the~~  
10 ~~department is ratified.~~

11 Sec. 16. Section 543A.3, subsection 4, Code 1987, is  
12 amended to read as follows:

13 4. A person who applies for a grain dealer's or warehouse  
14 operator's license ~~or a federal licensee who elects to~~  
15 ~~participate in the fund~~ who has not previously paid the full  
16 fee required by subsection 3, shall pay that amount before the  
17 license is issued ~~or the agreement is ratified.~~

18 Sec. 17. Section 543A.4, Code 1987, is amended to read as  
19 follows:

20 543A.4 INDEMNITY FUND BOARD.

21 The Iowa grain indemnity fund board is established to  
22 advise the department on matters relating to the fund and to  
23 perform the duties provided it in this chapter. The board is  
24 composed of the secretary ~~of the department~~ of agriculture or  
25 a designee who shall serve as president; the commissioner of  
26 insurance or a designee who shall serve as secretary; the  
27 state treasurer or a designee who shall serve as treasurer;  
28 and ~~two~~ four representatives of the grain industry appointed  
29 by the governor, subject to confirmation by the senate, ~~one~~  
30 two of whom shall be ~~a representative~~ representatives of grain  
31 ~~depositors and sellers~~ producers and who shall be actively  
32 participating producers, and ~~one~~ two of whom shall be a  
33 ~~representative~~ representatives of grain dealers and warehouse  
34 operators and who shall be actively participating grain  
35 dealers and warehouse operators, each of whom shall be

1 selected from a list of three nominations made by the  
2 secretary of agriculture. The term of membership of the grain  
3 industry representatives is three years, and the  
4 representatives are eligible for reappointment. However, only  
5 actively participating producers, and grain dealers and  
6 warehouse operators are eligible for reappointment. The grain  
7 industry representatives are entitled to forty dollars per  
8 diem for each day spent in the performance of the duties of  
9 the board, plus actual expenses incurred in the performance of  
10 those duties. Three Four members of the board constitute a  
11 quorum, and the affirmative vote of three four members is  
12 necessary for any action taken by the board, except that a  
13 lesser number may adjourn a meeting. A vacancy in the  
14 membership of the board does not impair the rights of a quorum  
15 to exercise all the rights and perform all the duties of the  
16 board.

17 Sec. 18. Section 543A.5, Code 1987, is amended to read as  
18 follows:

19 543A.5 ADJUSTMENTS TO FEE.

20 1. The board 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 per-bushel fee required under section 543A.3, subsection  
24 2, and the dealer-warehouse fee required under section 543A.3,  
25 subsection 3, that are necessary to maintain the fund within  
26 the limits established under this section. Not later than the  
27 first day of May of each year, the board shall determine the  
28 proposed amount of the per-bushel fee based on the expected  
29 volume of grain on which the fee is to be collected and that  
30 is likely to be handled under this chapter, and shall also  
31 determine any adjustment to the dealer-warehouse fee. ~~The~~  
32 ~~per-bushel-fee-and-the-dealer-warehouse-fee-shall-be-adjusted~~  
33 ~~on-a-pro-rata-basis.~~ The board shall make any changes in the  
34 previous year's fees in accordance with chapter 17A. Changes  
35 in the fees shall become effective on the following first day

1 of July. The per-bushel fee shall not exceed one-quarter cent  
2 per bushel on all ~~grains-on-which-the-fee-is-to-be-paid~~  
3 assessable grain. Until the per-bushel fee is adjusted or  
4 waived as provided in this section, the per-bushel fee is one-  
5 quarter cent on all ~~other-grains-on-which-the-fee-is-paid~~  
6 assessable grain.

7 2. If, at the end of any fiscal year, the assets of the  
8 fund exceed six million dollars, less any encumbered balances  
9 or pending or unsettled claims, the per-bushel fee required  
10 under section 543A.3, subsection 2, and the dealer-warehouse  
11 fee required under section 543A.3, subsection 3, shall be  
12 waived until the board reinstates the fees ~~en-a-pro-rata~~  
13 basis. The board shall reinstate the ~~fee fees~~ if the assets  
14 of the fund, less any unencumbered balances or pending or  
15 unsettled claims, are three million dollars or less.

16 Sec. 19. Section 543A.6, subsection 1, Code 1987, is  
17 amended to read as follows:

18 1. ~~When-a-depositor-or-seller-has-made-a-demand-for~~  
19 ~~settlement-of-an-obligation-concerning-grain-on-which-a-fee~~  
20 ~~was-required-to-be-remitted-under-section-543A.3-and-the~~  
21 ~~licensed-grain-dealer-or-licensed-warehouse-operator-has~~  
22 ~~failed-to-honor-the-demand, the depositor or seller, after~~  
23 ~~providing the department with evidence of the demand and the~~  
24 ~~dishonoring of the demand, may file a claim with the~~  
25 ~~department for indemnification of damages from the grain~~  
26 ~~depositors and sellers indemnity fund~~ A depositor or seller  
27 may file a claim concerning assessable grain with the  
28 department for indemnification of a loss from the grain  
29 depositors and sellers indemnity fund. A claim shall be filed  
30 in the manner prescribed by the board. A claim shall not be  
31 filed prior to the earlier of: 1) the revocation,  
32 termination, or cancellation of the license of the grain  
33 dealer or warehouse operator; and 2) the filing of a petition  
34 in bankruptcy by a grain dealer or warehouse operator. How-  
35 ever, to be timely a claim shall be filed within one hundred

1 twenty days of the revocation, termination, or cancellation of  
2 the license of the grain dealer or warehouse operator. The  
3 value of a loss is to be measured as follows:

4 a. The board shall ~~establish~~ determine the dollar value of  
5 ~~the loss~~ a claim incurred by a depositor holding a warehouse  
6 receipt or a scale weight ticket for grain that the depositor  
7 delivered to the licensed warehouse operator ~~and by a seller~~  
8 ~~who has delivered grain sold on a credit sale contract to a~~  
9 ~~licensed grain dealer.~~ The value shall be based on the  
10 average fair market price being paid for the grain to  
11 producers by the three licensed grain dealers nearest the  
12 warehouse operator ~~or grain dealer for the grain~~ on the  
13 earlier of the following:

14 (1) The date of license suspension or the revocation,  
15 termination, or cancellation.

16 (2) The date on which the department received notice that  
17 the receipt, scale weight ticket, or credit sale contract was  
18 dishonored by the licensed warehouse operator or licensed  
19 grain dealer filed a petition in bankruptcy.

20 However, the board may accept the valuation of a claim as  
21 determined by a court of competent jurisdiction as the value  
22 of the claim. All depositors filing claims under this section  
23 shall be bound by the value determined by the board. The  
24 value of the loss is the outstanding balance on the validated  
25 claim at time of payment from the fund.

26 b. The dollar value of ~~the loss~~ a claim incurred by a  
27 seller who has sold grain or delivered grain for sale or  
28 exchange and who is a creditor of the licensed grain dealer  
29 for all or part of the value of the grain shall be based on  
30 the amount stated on the obligation on the date of the sale.  
31 However, the board may accept the valuation of a claim as  
32 determined by a court of competent jurisdiction as the value  
33 of the claim. The value of the loss is the outstanding  
34 balance on the validated claim at the time of payment from the  
35 fund.

1       Sec. 20. Section 543A.6, subsections 2, 3, and 5, Code  
2 1987, are amended to read as follows:

3       2. The grain depositors and sellers indemnity fund is  
4 liable to a depositor or seller for a claim which arises on or  
5 after May 15, 1986, for ninety percent of the loss, as  
6 determined under subsection 1, but not more than one hundred  
7 fifty thousand dollars per claimant. ~~The aggregate amount  
8 recovered by a depositor or seller under all remedies shall  
9 not exceed ninety percent of the value of the loss. If the  
10 moneys recovered by a depositor or seller under all remedies  
11 exceed ninety percent of the value of the loss, the depositor  
12 or seller shall reimburse the fund in the amount that exceeds  
13 ninety percent of the value of the loss.~~

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

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

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

10 Sec. 21. This Act shall not affect a claim for  
11 indemnification by any person from the depositors and sellers  
12 indemnity fund, if the claim arose from a purchase of grain by  
13 a credit sale contract, and the contract was executed before  
14 the effective date of this Act.

15 Sec. 22. Section 6 of this Act and the corresponding uses  
16 of the term "assessable grain" in sections 543A.3, subsection  
17 1, and 543A.5, subsection 1, are retroactive to May 15, 1986.

18 EXPLANATION

19 Section 1 provides that the definition of grain dealer  
20 shall not include certain persons who are engaged in custom  
21 formula feed operations if purchases from producers are less  
22 than fifty thousand bushels.

23 Section 2 provides that grain dealers must have a minimum  
24 net worth based on a sliding scale that increases the amount  
25 required as the total dollar amount of grain purchased  
26 increases.

27 Sections 3 and 4 limit the number of unqualified opinions  
28 or reports by a certified public accountant that must be  
29 submitted each year by grain dealers.

30 Section 5 provides that sellers shall be notified by grain  
31 dealers that grain purchased by credit sale contract is not  
32 protected by the indemnity fund. It also eliminates the  
33 restrictions relating to the financial responsibility of the  
34 creditor.

35 Section 6 revises the statutory distribution of assets in a

1 receivership of a warehouse by excluding proceeds of the  
2 indemnity fund from the distribution.

3 Sections 7 and 8 raise the minimum net worth required to be  
4 maintained by warehouse operators from twenty cents to twenty-  
5 five cents per bushel of warehouse capacity. These sections  
6 also limit the number of unqualified opinions or reports by a  
7 certified public accountant that must be submitted each year  
8 by warehouse operators.

9 Section 9 refines the definition of "depositor" in section  
10 543A.1 to provide that only depositors in state warehouses are  
11 involved, and corrects a misreference in the definition of the  
12 "fund".

13 Section 10 strikes the definition of "grain bank" and  
14 "grain sold" and replaces them with a new definition of  
15 "assessable grain". The new definition is then used in  
16 section 13 and section 18. The effect is to include grain  
17 bank storage both under the assessment and the protection of  
18 the fund, and also to provide that a grain dealer is assessed  
19 on grain sold to the grain dealer and a licensed warehouse is  
20 assessed on grain stored.

21 Section 11 amends the definition of "seller" to exclude  
22 persons who execute credit sale contracts. These sellers  
23 would no longer be protected by the grain indemnity fund.

24 Section 12 eliminates a provision which permitted federally  
25 licensed warehouses to participate in the grain indemnity  
26 fund.

27 Section 13 provides that if the department does not receive  
28 the per-bushel fee from a grain dealer or warehouse operator  
29 as prescribed by the department, a ten dollar penalty shall be  
30 imposed in place of the current interest penalty. It also  
31 provides that the license of a dealer or operator shall be  
32 suspended if the per-bushel fee is more than thirty days late.

33 Sections 14, 15, and 16 conform language to section 12.

34 Section 17 provides for the appointment of two additional  
35 representatives of the grain industry to serve on the Iowa

1 grain indemnity fund board.

2 Section 18 eliminates the pro rata adjustment of the per-  
3 bushel fee and the dealer-warehouse fee, but permits the grain  
4 indemnity fund board to adjust each fee independently.

5 Section 19 details the procedure that shall be used by the  
6 board to determine the value of a loss incurred by a depositor  
7 or a seller.

8 Section 20 provides that a claimant who recovers more than  
9 the amount guaranteed by the fund, need not reimburse the fund  
10 for that amount, as is required under present law. The sec-  
11 tion also removes a requirement that there must be a demand  
12 for settlement within certain periods if a claim is to be  
13 valid, and removes a requirement that depositors and sellers  
14 file copies of actions relating to potential claims against  
15 the fund with the department.

16 Section 21 provides that purchasers of grain by credit sale  
17 contract are not deprived of any protection provided under  
18 present chapter 543A, if the contract was executed before the  
19 effective date of this Act.

20 Section 22 provides that provisions relating to "assessable  
21 grain" as defined in section 10 are retroactively applied.

22 SENATE FILE 372

23 S-3252

- 24 1 Amend Senate File 372 as follows:
- 25 2 1. By striking pages 1 through 3.
- 26 3 2. Page 4, by striking lines 1 through 32.
- 27 4 3. Page 5, lines 22 and 23, by striking the words
- 5 "paragraphs a and b, Code 1987, are" and inserting the
- 6 following: "paragraph a, Code 1987, is".
- 7 4. By striking page 5, line 32 through page 6,
- 8 line 25.
- 9 5. Page 6, lines 26 and 27, by striking the words
- 10 "paragraphs a and b, Code 1987, are" and inserting the
- 11 words "paragraph a, Code 1987, is".
- 12 6. Page 7, by striking lines 1 through 29.
- 13 7. Title page, lines 1 through 4 by striking the
- 14 words "further defining the term "grain dealer",
- 15 providing minimum net worth requirements for grain
- 16 dealers, limiting financial reporting by grain dealers
- 17 and warehouse operators,".
- 18 8. Title page, lines 7 and 8, by striking the
- 19 words "for warehouse operators".
- 20 9. By renumbering as necessary.

32 S-3252

33 Filed March 24, 1987

BY ALVIN V. MILLER