

SENATE FILE **526**  
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 34)

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

A BILL FOR

1 An Act relating to the management of grain, providing for the  
2 assessment of fees, providing an effective date, and making  
3 penalties applicable.

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

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**SF 526**

1 Section 1. Section 542.3, Code 1991, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 9. The department shall not issue or  
4 renew a license to a grain dealer purchasing grain by credit-  
5 sale contract unless the grain dealer has furnished evidence  
6 of financial responsibility with the department consisting of  
7 either a surety bond or a liability insurance policy or a  
8 certification of the bond or policy, as required in section  
9 542.15.

10 Sec. 2. Section 542.15, Code 1991, is amended by adding  
11 the following new subsection:

12 NEW SUBSECTION. 9. A licensed grain dealer who purchases  
13 grain by credit-sale contract shall furnish the department  
14 with evidence of financial responsibility consisting either of  
15 a bond or a liability insurance policy or a certification of  
16 the bond or policy. The bond or insurance policy shall be  
17 payable to the Iowa grain indemnity fund board. The bond or  
18 policy shall be issued by a person and according to procedures  
19 approved by the department and the board. The bond shall be  
20 conditioned upon the payment of an amount determined pursuant  
21 to section 543A.4, in accordance with rules adopted by the  
22 department in consultation with and subject to approval by the  
23 board. The amount of the bond or liability insurance shall be  
24 fifty thousand dollars.

25 The department and the board shall be notified thirty days  
26 prior to any reduction at the request of the applicant or  
27 cancellation of the bond or liability insurance by the surety  
28 or insurer. The total and aggregate liability of the surety  
29 and insurer for all claims shall be limited to the face of the  
30 bond or liability insurance policy.

31 Sec. 3. Section 543A.1, Code 1991, is amended by adding  
32 the following new subsections:

33 NEW SUBSECTION. 1A. "Covered seller" means a seller other  
34 than a seller who purchases grain by a credit-sale contract.

35 NEW SUBSECTION. 1B. "Credit-sale contract" means credit-

1 sale contract as defined in section 542.1.

2 NEW SUBSECTION. 1C. "Credit-sale fund" means the sellers  
3 of credit-sale contract grain indemnity fund as created in  
4 section 543A.8.

5 Sec. 4. Section 543A.1, subsection 8, Code 1991, is  
6 amended to read as follows:

7 8. "Loss" means either of the following:

8 a. The amount of a claim which may be filed against the  
9 fund pursuant to section 543A.6, if the claim is held by a  
10 covered seller or a depositor against a grain dealer or  
11 warehouse operator which and the amount has not been recovered  
12 through other legal and or equitable remedies, including the  
13 liquidation of assets.

14 b. The amount of a claim which may be filed against the  
15 credit-sale contract fund pursuant to section 543A.8, if the  
16 claim is held by a seller who has sold grain by credit-sale  
17 contract and the amount has not been recovered through other  
18 legal or equitable remedies, including the liquidation of  
19 assets.

20 Sec. 5. Section 543A.1, subsection 9, Code 1991, is  
21 amended to read as follows:

22 9. "Seller" means a person who sells grain which the  
23 person has produced or caused to be produced to a licensed  
24 grain dealer, ~~but-excludes-a-person-who-executes-a-credit-sale~~  
25 ~~contract-as-a-seller.--However--"seller"--does-not-include~~  
26 including a person licensed as a grain dealer in any  
27 jurisdiction who sells grain to a licensed grain dealer.

28 Sec. 6. Section 543A.3, subsection 1, Code 1991, is  
29 amended to read as follows:

30 1. The grain depositors and sellers indemnity fund is  
31 created in the state treasury as a separate account. The  
32 general fund of the state is not liable for claims presented  
33 against the grain depositors and sellers indemnity fund under  
34 section 543A.6. The fund consists of a per-bushel fee on  
35 purchased grain remitted by licensed grain dealers and

1 licensed warehouse operators; an annual fee charged to and  
2 remitted by licensed grain dealers and licensed warehouse  
3 operators; delinquency penalties; sums collected by the  
4 department by legal action on behalf of the fund; and  
5 interest, property, or securities acquired through the use of  
6 moneys in the fund.

7 PARAGRAPH DIVIDED. The fiscal year of the fund begins July  
8 1. Fiscal quarters of the fund begin July 1, October 1,  
9 January 1, and April 1. The finances of the fund shall be  
10 calculated on an accrual basis in accordance with generally  
11 accepted accounting principles.

12 PARAGRAPH DIVIDED. The moneys collected under this section  
13 and deposited in the fund shall be used exclusively to  
14 indemnify depositors and covered sellers as provided in  
15 section 543A.6 and to pay the administrative costs of this  
16 chapter.

17 Sec. 7. Section 543A.3, subsection 6, Code 1991, is  
18 amended to read as follows:

19 6. The administrative costs of this chapter shall be paid  
20 from the fund funds established in sections 543A.3 and 543A.8  
21 after approval of the costs by the board.

22 Sec. 8. Section 543A.3, subsection 7, Code 1991, is  
23 amended to read as follows:

24 7. A grain dealer may choose to pass on the cost of a per-  
25 bushel fee to the covered sellers by an itemized discount  
26 noted on the settlement sheet. However, if the per-bushel fee  
27 is not in effect, no a grain dealer shall not make such a  
28 discount on the purchase of grain. A discount made nominally  
29 for the per-bushel fee while the fee is not in effect is  
30 grounds for license suspension and revocation under chapter  
31 542.

32 Sec. 9. Section 543A.4, subsections 2 and 3, Code 1991,  
33 are amended to read as follows:

34 2. The duties of the board include the review and  
35 determination of claims, and the review and approval of

1 administrative costs of the ~~fund~~ funds established in sections  
2 543A.3 and 543A.8. To carry out these duties, the board has  
3 the power to adopt rules regarding its organization and  
4 procedures for determining claims. Further, the board shall  
5 approve rules proposed by the department for the  
6 administration of the per-bushel fee fees prior to their  
7 adoption by the department. The board may provide comment and  
8 advice to the department in regard to the department's  
9 administration of chapters 542 and 543 where the department's  
10 policies and rules may affect the exposure of the fund to  
11 liability. However, the board shall not become actively  
12 involved in a determination by the department as to whether  
13 disciplinary action is to be taken against a particular  
14 licensee. The board is not a forum for review or appeal in  
15 regard to any particular action taken by the department  
16 against a licensee.

17 3. The department through the grain warehouse bureau shall  
18 perform the administrative functions necessary for the  
19 operation of the board and ~~the fund~~ funds under the board's  
20 control. Administrative costs approved by the board relating  
21 to the grain depositors and sellers indemnity fund shall be  
22 paid from the that fund. Administrative costs approved by the  
23 board relating to the sellers of credit-sale contract  
24 indemnity fund shall be made from that fund. The rules of the  
25 department shall contain the rules of the board adopted for  
26 its organization and its procedures. The department shall  
27 adopt rules for the administration of the per-bushel fee upon  
28 the board's approval of the rules proposed by the department.  
29 The secretary of agriculture, as president of the board as  
30 well as head of the department of agriculture and land  
31 stewardship, shall administer the department so as to minimize  
32 the risk of loss to the fund while protecting interests of  
33 depositors and sellers of grain. Policies and rules for the  
34 administration of chapters 542 and 543 which, as determined by  
35 the secretary of agriculture, may affect the exposure of the

1 fund, shall be presented to the board for comment prior to  
2 their adoption by the department.

3 PARAGRAPH DIVIDED. The department shall make reports to  
4 the board in regard to licensee investigations which may  
5 result in disciplinary action against a licensee and exposure  
6 of the fund. The reports may be discussed by the board in  
7 closed session pursuant to section 21.5, and are confidential.  
8 In making the report, the department shall make available to  
9 the board records of licensees which are otherwise  
10 confidential under section 22.7, 542.16, or 543.24. However,  
11 a determination to take disciplinary action against a  
12 particular licensee shall be made exclusively by the  
13 department. A report to the board is not a prerequisite to  
14 disciplinary action against a licensee. Review of any action  
15 against a licensee, whether or not relating to the either  
16 fund, shall be made exclusively through the department.

17 Sec. 10. Section 543A.4, Code 1991, is amended by adding  
18 the following new subsection:

19 NEW SUBSECTION. 4. The board shall review and determine  
20 claims by sellers purchasing grain by credit-sale contract  
21 pursuant to section 543A.10. To carry out these duties, the  
22 board has the power to adopt rules regarding procedures for  
23 determining claims. The board may provide comment and advice  
24 to the department. The board shall approve rules adopted by  
25 the department requiring that grain dealers furnish the  
26 department with evidence of financial responsibility  
27 consisting either of a bond or a liability insurance policy or  
28 certification of the bond or policy. The board shall adopt  
29 rules for the payment of moneys from a bond or insurance  
30 policy required to reimburse the department for administrative  
31 or investigatory costs related to the grain dealer required to  
32 maintain the bond or policy. The remaining moneys shall be  
33 paid into the credit-sale contract fund.

34 Sec. 11. Section 543A.5, subsection 1, Code 1991, is  
35 amended to read as follows:

1 1. The board shall review annually the debits of and  
2 credits to the grain depositors and sellers indemnity fund  
3 created in section 543A.3 and shall make any adjustments in  
4 the per-bushel fee required under section 543A.3, subsection  
5 2, and the dealer-warehouse fee required under section 543A.3,  
6 subsection 3, that are necessary to maintain the fund within  
7 the limits established under this section. Not later than the  
8 first day of May of each year, the board shall determine the  
9 proposed amount of the per-bushel fee based on the expected  
10 volume of grain on which the fee is to be collected and that  
11 is likely to be handled ~~under this chapter~~, and shall also  
12 determine any adjustment to the dealer-warehouse fee. The  
13 board shall make any changes in the previous year's fees in  
14 accordance with chapter 17A. Changes in the fees shall become  
15 effective on the following first day of July. The per-bushel  
16 fee shall not exceed one-quarter cent per bushel on all  
17 purchased grain as defined in section 543A.3. Until the per-  
18 bushel fee is adjusted or waived as provided in this section,  
19 the per-bushel fee is one-quarter cent on all purchased grain.

20 Sec. 12. Section 543A.6, subsection 1, unnumbered  
21 paragraph 1, Code 1991, is amended to read as follows:

22 A depositor or covered seller may file a claim with the  
23 department for indemnification of a loss from the grain  
24 depositors and sellers indemnity fund. A claim shall be filed  
25 in the manner prescribed by the board. A claim shall not be  
26 filed prior to the incurrence date, which is the earlier of  
27 the following:

28 Sec. 13. Section 543A.6, subsection 3, paragraphs c and d,  
29 Code 1991, are amended to read as follows:

30 c. That the claimant qualifies as a depositor or covered  
31 seller.

32 d. That the claim derives from a covered transaction. For  
33 purposes of this paragraph, a claim derives from a covered  
34 transaction if the claimant is a covered seller who  
35 transferred title to the grain to the grain dealer other-than

1 by-credit safe-contract within six months of the incurrence  
2 date, or if the claimant is a depositor who delivered the  
3 grain to the warehouse operator.

4 Sec. 14. Section 543A.6, subsection 5, Code 1991, is  
5 amended to read as follows:

6 5. VALUE OF LOSS -- GRAIN DEALER CLAIMS. The dollar value  
7 of a claim incurred by a covered seller who has sold grain or  
8 delivered grain for sale or exchange and who is a creditor of  
9 the licensed grain dealer for all or part of the value of the  
10 grain shall be based on the amount stated on the obligation on  
11 the date of the sale. If the sold grain was unpriced, the  
12 value of a claim shall be presumed to be based upon the fair  
13 market price, free-on-board from the site of the grain dealer,  
14 being paid to producers for grain by the grain terminal  
15 operator nearest the grain dealer on the date of the license  
16 revocation or cancellation or the filing of a petition in  
17 bankruptcy. If more than one date applies to a claim, the  
18 board may choose between the two. However, the board may  
19 accept an alternative valuation of a claim upon a showing of  
20 just cause by the covered seller or department. All covered  
21 sellers filing claims under this section shall be bound by the  
22 value determined by the board. The value of the loss is the  
23 outstanding balance on the validated claim at the time of  
24 payment from the fund.

25 Sec. 15. Section 543A.6, subsection 6, Code 1991, is  
26 amended to read as follows:

27 6. PROCEDURE -- APPEAL. The board, through the  
28 department, shall provide for notice to each depositor and  
29 covered seller upon its determination of eligibility and value  
30 of loss. Within twenty days of the notice, the depositor or  
31 covered seller may request a hearing for the review of either  
32 determination. The request shall be made in the manner  
33 provided by the board. The hearing and any further appeal  
34 shall be conducted as a contested case subject to chapter 17A.  
35 A depositor or covered seller whose claim has been refused by

1 the board may appeal the refusal to either the district court  
2 of Polk county or the district court of the county in which  
3 the depositor or covered seller resides.

4 Sec. 16. Section 543A.6, subsection 8, Code 1991, is  
5 amended to read as follows:

6 8. SUBROGATION OF FUND. In the event of payment of a loss  
7 under this section, the fund is subrogated to the extent of  
8 the amount of any payments to all rights, powers, privileges,  
9 and remedies of the depositor or covered seller against any  
10 person regarding the loss. The depositor or covered seller  
11 shall render all necessary assistance to aid the department  
12 and the board in securing the rights granted in this section.  
13 No action or claim initiated by a depositor or covered seller  
14 and pending at the time of payment from the fund shall be  
15 compromised or settled without the consent of the board.

16 Sec. 17. NEW SECTION. 543A.8 SELLERS OF CREDIT-SALE  
17 CONTRACT GRAIN INDEMNITY FUND.

18 1. The sellers of credit-sale contract grain indemnity  
19 fund is created in the state treasury as a separate account.  
20 The general fund of the state is not liable for claims  
21 presented against the credit-sale contract fund under section  
22 543A.10. The fund consists of a per-bushel fee on purchased  
23 grain purchased by credit-sale contract and remitted by  
24 licensed grain dealers; delinquency penalties; sums collected  
25 by the department by legal action on behalf of the credit-sale  
26 contract fund; and interest, property, or securities acquired  
27 through the use of moneys in the credit-sale contract fund.  
28 The fiscal year of the fund begins July 1. Fiscal quarters of  
29 the credit-sale contract fund begin July 1, October 1, January  
30 1, and April 1. The finances of the credit-sale contract fund  
31 shall be calculated on an accrual basis in accordance with  
32 generally accepted accounting principles. The moneys  
33 collected under this section and deposited in the credit-sale  
34 contract fund shall be used exclusively to indemnify sellers  
35 as provided in section 543A.10 and to pay the administrative

1 costs of this chapter.

2 2. A per-bushel fee shall be assessed on all purchased  
3 grain. As used in this chapter, "purchased grain" means grain  
4 which is entered in the company-owned paid position as  
5 evidenced on the grain dealer's daily position record.  
6 However, if the grain dealer provides documentation regarding  
7 the transaction satisfactory to the department, the following  
8 transactions shall be excluded from the fee:

9 a. Grain purchased from the United States government or  
10 any of its subdivisions or agencies.

11 b. Grain purchased from a person licensed as a grain  
12 dealer in any jurisdiction.

13 The grain dealer shall forward the per-bushel fee to the  
14 department on a quarterly basis in the manner and using the  
15 forms prescribed by the department. A licensee is delinquent  
16 if the licensee fails to submit the full fee or quarterly  
17 forms when due, or if upon examination, an underpayment of the  
18 fee is found by the department. The grain dealer is subject  
19 to a penalty of ten dollars for each day the grain dealer is  
20 delinquent or an amount equal to the amount of the deficiency,  
21 whichever is less. However, a licensee who fails to submit  
22 the full fee or quarterly forms when due is subject to a  
23 minimum payment of ten dollars. The department may establish  
24 and apply a margin of error in determining whether a grain  
25 dealer is delinquent. If the per-bushel fee and any penalty  
26 due have not been received by the department within thirty  
27 days after notice by the department, the grain dealer's  
28 license shall be suspended. The per-bushel fee assessment on  
29 grain purchased by credit-sale contract shall be collected  
30 only once on each bushel of grain. However, the grain dealer  
31 must also pay the per-bushel fee on the grain as required in  
32 section 543A.3.

33 3. All disbursements from the credit-sale contract fund  
34 shall be paid by the treasurer of state pursuant to vouchers  
35 authorized by the department.

1 4. The administrative costs shall be paid from the credit-  
2 sale contract fund after approval of the costs by the board.

3 5. A grain dealer may choose to pass on the cost of a per-  
4 bushel fee to the seller. The per-bushel fee shall be  
5 assessed at the time that title to the grain is transferred.

6 Sec. 18. NEW SECTION. 543A.9 ADJUSTMENTS TO FEE.

7 1. The board shall review annually the debits of and  
8 credits to the credit-sale contract fund created in section  
9 543A.8 and shall make any adjustments in the per-bushel fee  
10 required under section 543A.8 that are necessary to maintain  
11 the credit-sale contract fund within the limits established  
12 under section 543A.8. Not later than the first day of May of  
13 each year, the board shall determine the proposed amount of  
14 the per-bushel fee based on the expected volume of grain on  
15 which the fee is to be collected and that is likely to be  
16 handled under section 543A.8. The board shall make any  
17 changes in the previous year's fees in accordance with chapter  
18 17A. Changes in the fees shall become effective on the  
19 following first day of July. The per-bushel fee shall not  
20 exceed one cent per bushel on all purchased grain as defined  
21 in section 543A.8. Until the per-bushel fee is adjusted or  
22 waived as provided in this section, the per-bushel fee is one  
23 cent on all purchased grain.

325724 2. If, at the end of any three-month period, the assets of  
25 the fund exceed six million dollars, less any encumbered  
26 balances or pending or unsettled claims, the per-bushel fee  
27 required under section 543A.8 shall be waived and the fees are  
28 not assessable or owing. The board shall reinstate the fees  
29 if the assets of the fund, less any unencumbered balances or  
30 pending or unsettled claims, are three million dollars or  
31 less.

32 Sec. 19. NEW SECTION. 543A.10 CLAIMS AGAINST THE CREDIT-  
33 SALE CONTRACT FUND.

34 1. PERSONS WHO MAY FILE CLAIMS -- TIME OF FILING. A  
35 seller selling grain by credit may file a claim with the

1 department for indemnification of a loss from the credit-sale  
2 contract fund. A claim shall be filed in the manner  
3 prescribed by the board. A claim shall not be filed prior to  
4 the incurrence date, which is the earlier of the following:

5 a. The revocation, termination, or cancellation of the  
6 license of the grain dealer.

7 b. The filing of a petition in bankruptcy by a grain  
8 dealer.

9 To be timely, a claim shall be filed within one hundred  
10 twenty days of the incurrence date.

11 2. NOTICE. The department shall cause notice of the  
12 opening of the claim period to be published once each week for  
13 two consecutive weeks in a newspaper of general circulation in  
14 each of the counties in which the licensee maintains a  
15 business location and in a newspaper of general circulation  
16 within the state. The notice shall state the name and address  
17 of the licensee and the claim incurrence date. The notice  
18 shall also state that any claims against the fund on account  
19 of the licensee shall be sent by ordinary mail to the  
20 department within one hundred twenty days after the incurrence  
21 date, and that the failure to make a timely claim relieves the  
22 credit-sale contract fund from liability to the claimant.

23 This notice may be incorporated by the department with a  
24 notice required by section 542.12, 543.14, or 543A.6.

25 3. DETERMINATION OF ELIGIBLE CLAIMS. The board shall  
26 determine a claim to be eligible for payment from the credit-  
27 sale contract fund if the board finds all of the following:

28 a. That the claim was timely filed.

29 b. That the incurrence date was on or after July 1, 1991.

30 c. That the claimant qualifies as a seller who has sold  
31 grain by credit-sale contract.

32 d. That the claim derives from a covered transaction. For  
33 purposes of this paragraph, a claim derives from a covered  
34 transaction if the claimant is a seller who transferred title  
35 to the grain to the grain dealer by credit-sale contract

1 within twelve months of the incurrence date.

2 e. That there is adequate documentation to establish the  
3 existence of a claim and to determine the amount of the loss.

4 4. VALUE OF LOSS. The dollar value of a claim incurred by  
5 a seller who has sold grain by credit-sale contract for sale  
6 or exchange and who is a creditor of the licensed grain dealer  
7 for all or part of the value of the grain shall be based on  
8 the amount stated on the contract on the date of the sale. If  
9 the sold grain was unpriced, the value of a claim shall be  
10 presumed to be based upon the fair market price, free-on-board  
11 from the site of the grain dealer, being paid to producers for  
12 grain by the grain terminal operator nearest the grain dealer  
13 on the date of the license revocation or cancellation or the  
14 filing of a petition in bankruptcy. If more than one date  
15 applies to a claim, the board may choose between the two.  
16 However, the board may accept an alternative valuation of a  
17 claim upon a showing of just cause by the seller or  
18 department. All sellers filing claims under this section  
19 shall be bound by the value determined by the board. The  
20 value of the loss is the outstanding balance on the validated  
21 claim at the time of payment from the fund.

22 5. PROCEDURE -- APPEAL. The board, through the  
23 department, shall provide for notice to each seller upon its  
24 determination of eligibility and value of loss. Within twenty  
25 days of the notice, the seller may request a hearing for the  
26 review of either determination. The request shall be made in  
27 the manner provided by the board. The hearing and any further  
28 appeal shall be conducted as a contested case subject to  
29 chapter 17A. A depositor whose claim has been refused by the  
30 board may appeal the refusal to either the district court of  
31 Polk county or the district court of the county in which the  
32 depositor or seller resides.

33 6. PAYMENT OF CLAIMS. Upon a determination that the claim  
34 is eligible for payment, the board shall provide for payment  
35 of fifty percent of the loss, as determined under subsection

1 4, but not more than one hundred fifty thousand dollars per  
2 claimant. If at any time the board determines that there are  
3 insufficient funds to make payment of all claims, the board  
4 shall order payment to be made on a prorated basis. However,  
5 the unencumbered balance of the fund shall not be less than  
6 three million dollars. Claims which have not been completely  
7 satisfied shall be deferred. The department, upon the board's  
8 instruction, shall hold those claims for payment until the  
9 board determines that the credit-sale contract fund again  
10 contains sufficient assets.

11 7. SUBROGATION OF FUND. In the event of payment of a loss  
12 under this section, the credit-sale contract fund is  
13 subrogated to the extent of the amount of any payments to all  
14 rights, powers, privileges, and remedies of the seller against  
15 any person regarding the loss. The seller shall render all  
16 necessary assistance to aid the department and the board in  
17 securing the rights granted in this section. No action or  
18 claim initiated by a seller and pending at the time of payment  
19 from the credit-sale contract fund shall be compromised or  
20 settled without the consent of the board.

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21 Sec. 20. EFFECTIVE DATE. The Act takes effect October 1,  
22 1991. However, the department of agriculture and land  
23 stewardship shall adopt rules which shall be effective no  
24 later than October 1, 1991, which are necessary to implement  
25 this Act.

26 EXPLANATION

27 This bill provides for the regulation of grain dealers and  
28 warehouse operators by the department of agriculture and land  
29 stewardship pursuant to chapters 542 and 543 of the Code. The  
30 bill provides that the department shall not issue or renew a  
31 license to a grain dealer purchasing grain by credit-sale  
32 contract unless the grain dealer has furnished evidence of  
33 financial responsibility with the department consisting of  
34 either a surety bond or a liability insurance policy. The  
35 bill provides requirements for the issuance of such bonds.

1 The bill requires that grain purchased by credit-sale  
2 contract is subject to a one cent assessment which must be  
3 deposited in the sellers of credit-sale contract grain  
4 indemnity fund created in the bill. The fund is administered  
5 by the Iowa grain indemnity fund board. A seller who has a  
6 claim against a seller of grain may be reimbursed from the new  
7 fund for up to 50 percent of the seller's loss, but not more  
8 than \$150,000. The bill provides procedures relating to  
9 claims, determination of losses, and payment of claims.

10 A grain dealer who purchases grain by credit-sale contract  
11 without satisfying conditions relating to maintaining a bond  
12 as required in this bill commits a serious misdemeanor.

13 The bill takes effect on October 1, 1991. The department  
14 of agriculture and land stewardship is required to adopt rules  
15 to be effective by that date to effectuate the purposes of the  
16 bill.

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PRIEBE, M.  
DOYLE  
SCORHOLTZ

SSB 34  
AGRICULTURE

SENATE FILE 526  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON PRIEBE)

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

A BILL FOR

1 An Act relating to transactions involving grain, by prohibiting  
2 the use of credit-sale contracts, providing an effective date,  
3 and making penalties applicable.

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

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1 Section 1. Section 542.1, subsection 7, Code 1991, is  
2 amended to read as follows:

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

7 Sec. 2. Section 542.3, subsection 2, paragraph a, Code  
8 1991, is amended to read as follows:

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

15 Sec. 3. Section 542.3, subsection 4, paragraph b, Code  
16 1991, is amended to read as follows:

17 b. The grain dealer shall submit, as required by the  
18 department, 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 department 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 department. The department shall not require that a grain  
27 dealer submit more than one such unqualified opinion per year.  
28 The grain dealer may elect, however, to submit a financial  
29 statement that is accompanied by the report of a certified  
30 public accountant licensed in this state that is based upon a  
31 review performed by the certified public accountant in lieu of  
32 the audited financial statement specified in this paragraph.  
33 However, at any time the department may require a financial  
34 statement that is accompanied by the report of a certified  
35 public accountant licensed in this state that is based upon a

1 review performed by a certified public accountant if the  
2 department has good cause to believe that the net worth or  
3 current asset to current liability ratio of a licensee  
4 presents a danger to producers or sellers with whom the  
5 licensee deals. "Good cause" means that the department has  
6 evidence that the licensee issued checks on insufficient  
7 funds, evidence of a quality or quantity shortage in a  
8 warehouse facility, or evidence of violations of recordkeeping  
9 requirements. ~~If a grain dealer making the election engages~~  
10 ~~in credit sale contracts, the grain dealer shall also comply~~  
11 ~~with the provisions of section 542.15, subsection 8.~~

12 Sec. 4. Section 542.3, subsection 5, paragraph b, Code  
13 1991, is amended to read as follows:

14 b. The grain dealer shall submit, as required by the  
15 department, a financial statement that is accompanied by an  
16 unqualified opinion based upon an audit performed by a  
17 certified public accountant licensed in this state. However,  
18 the department may accept a qualification in an opinion that  
19 is unavoidable by any audit procedure that is permitted under  
20 generally accepted accounting principles. An opinion that is  
21 qualified because of a limited audit procedure or because the  
22 scope of an audit is limited shall not be accepted by the  
23 department. The department shall not require that a grain  
24 dealer submit more than one such unqualified opinion per year.  
25 The grain dealer may elect, however, to submit a financial  
26 statement that is accompanied by the report of a certified  
27 public accountant licensed in this state that is based upon a  
28 review performed by the certified public accountant in lieu of  
29 the audited financial statement specified in this paragraph.  
30 However, at any time the department may require a financial  
31 statement that is accompanied by the report of a certified  
32 public accountant licensed in this state that is based upon a  
33 review performed by a certified public accountant if the  
34 department has good cause to believe that the net worth or  
35 current asset to current liability ratio of a licensee

1 presents a danger to producers or sellers with whom the  
2 licensee deals. "Good cause" means that the department has  
3 evidence that the licensee issued checks on insufficient  
4 funds, evidence of a quality or quantity shortage in a  
5 warehouse facility, or evidence of violations of recordkeeping  
6 requirements. ~~If a grain dealer making the election engages~~  
7 ~~in credit sale contracts, the grain dealer shall also comply~~  
8 ~~with the provisions of section 542.15, subsection 8.~~

9 Sec. 5. Section 542.8, unnumbered paragraph 1, Code 1991,  
10 is amended to read as follows:

11 A person licensed as a grain dealer shall pay the purchase  
12 price to the owner or the owner's agent for grain upon  
13 delivery or demand of the owner or agent, but not later than  
14 thirty days after delivery by the owner or agent ~~unless in~~  
15 ~~accordance with the terms of a credit sale contract that~~  
16 ~~satisfies the requirements of this chapter.~~

17 Sec. 6. Section 542.11, subsection 2, Code 1991, is  
18 amended to read as follows:

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

29 Sec. 7. Section 542.15, Code 1991, is amended by striking  
30 the section and inserting in lieu thereof the following:

31 542.15 CREDIT-SALE CONTRACTS PROHIBITED.

32 A grain dealer shall not purchase grain by credit-sale  
33 contract.

34 Sec. 8. Section 542.17, subsection 1, Code 1991, is  
35 amended to read as follows:

1 1. The department may adopt rules specifying the form,  
2 content and use of scale tickets, ~~and credit-sale contracts.~~  
3 All scale ticket forms in the possession of a grain dealer  
4 shall have been permanently and consecutively numbered at the  
5 time of printing. A grain dealer shall maintain an accurate  
6 record of all scale ticket numbers. The record shall include  
7 the disposition of each numbered form, whether issued,  
8 destroyed, or otherwise disposed of.

9 Sec. 9. Section 542.21, Code 1991, is amended to read as  
10 follows:

11 542.21 CUSTOM LIVESTOCK FEEDER.

12 A custom livestock feeder shall only purchase grain from a  
13 grain producer by making payment by cash, check, or other  
14 instrument that is payable on demand. A custom livestock  
15 feeder shall not purchase grain from a grain producer using a  
16 credit-sale contract as defined in section 542.1, ~~subsection~~  
17 5.

18 Sec. 10. Section 543.17, subsection 1, Code 1991, is  
19 amended to read as follows:

20 1. Any grain which has been received at any a licensed  
21 warehouse for which the actual sale price is not fixed and  
22 proper documentation made or payment made shall be construed  
23 to be grain held for storage within the meaning of this  
24 chapter. However, a warehouse operator shall not knowingly  
25 store any grain currently covered by a credit-sale contract.  
26 Grain may be held in open storage or placed on warehouse  
27 receipt. Warehouse receipts shall be issued for all grain  
28 held in open storage, within six months of delivery to the  
29 warehouse, unless the depositor has signed a statement that  
30 the depositor does not desire a warehouse receipt. The  
31 warehouse operator's tariff shall apply for any grain that is  
32 retained in open storage or under warehouse receipt.

33 Sec. 11. Section 543.17, subsection 5, Code 1991, is  
34 amended to read as follows:

35 5. Any grain which has been received at any unlicensed

1 warehouse and for which the actual sale price has not been  
2 fixed and payment made within thirty days from receipt of the  
3 grain, ~~unless covered by a credit-sale contract~~, shall be  
4 construed to be unlawful storage within the meaning of this  
5 chapter. Bulk grain received at any unlicensed warehouse for  
6 any other purpose must either be returned to the depositor or  
7 disposed of by order of the depositor within thirty days from  
8 date of actual deposit of the bulk grain.

9 Sec. 12. Section 543.36, subsection 2, Code 1991, is  
10 amended to read as follows:

11 2. A person who engages in business as a warehouse  
12 operator without obtaining a license, or who knowingly stores  
13 grain currently covered by a credit-sale contract, who refuses  
14 to permit inspection of licensed premises, or books, accounts,  
15 records or other documents required by this chapter, or who  
16 uses a scale ticket, warehouse receipt or other document which  
17 fails to satisfy requirements established by the department  
18 commits a serious misdemeanor, ~~except that~~. However, a person  
19 who commits any of these offenses after having been found  
20 guilty of the same offense commits an aggravated misdemeanor.

21 Sec. 13. Section 543A.3, subsection 2, paragraph c, Code  
22 1991, is amended by striking the paragraph.

23 Sec. 14. This Act takes effect on September 1, 1991.

24 EXPLANATION

25 This bill amends chapters 542, 543, and 543A by prohibiting  
26 a person regulated as a grain dealer or warehouse operator  
27 from purchasing or storing grain covered by a credit-sale  
28 contract. A credit-sale contract is defined to mean a  
29 contract for the sale of grain in which the sale price is paid  
30 more than 30 days after the delivery of the grain to the  
31 buyer. Currently, dealers may purchase grain, and warehouse  
32 operators may store grain, which is covered by credit-sale  
33 contract pursuant to certain restrictions. The grain  
34 depositors and sellers indemnity fund does not insure grain  
35 under such contracts.

1 Penalties are made applicable to the prohibition. A grain  
2 dealer purchasing the grain and a warehouse operator knowingly  
3 storing the grain is guilty of a serious misdemeanor. If a  
4 dealer or operator commits the offense for a subsequent time,  
5 the dealer or operator is guilty of an aggravated misdemeanor.

6 The bill takes effect on September 1, 1991.

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SENATE FILE 526

S-3298

1 Amend Senate File 526 as follows:

2 1. Page 13, by inserting after line 20, the  
3 following:

4 "Sec. 1000. GRAIN SELLERS EXECUTING CREDIT-SALE  
5 CONTRACTS PRIOR TO THE EFFECTIVE DATE OF THIS ACT.

6 1. For purposes of this section a person selling  
7 grain by credit-sale contract to a licensed grain  
8 dealer shall qualify as a "seller" notwithstanding  
9 section 543A.1, the grain shall be deemed "purchased  
10 grain" notwithstanding section 543A.3, and the sale  
11 shall be deemed a "covered transaction"

12 notwithstanding section 543A.6. However, a seller  
13 does not include a person licensed as a grain dealer  
14 who sells grain to a licensed grain dealer.

15 2. A seller may file a claim with the department  
16 for indemnification of a loss from the grain  
17 depositors and sellers indemnity fund, if the loss  
18 results from the sale of grain by credit-sale  
19 contract, and the incurrence date, as provided in  
20 chapter 543A, is on or after December 1, 1990, but  
21 before October 1, 1991.

22 3. The Iowa grain indemnity fund board shall  
23 provide notice of the opening of a claim period which  
24 shall end on October 1, 1991. A claimant must present  
25 to the board adequate documentation to establish the  
26 existence of a claim and the amount of a loss. The  
27 board shall determine eligibility of claims according  
28 to the requirements of this section. The claim must  
29 not be filed prior to the incurrence date as provided  
30 in section 543A.6. The procedures for determining the  
31 value of a loss, the procedure for appealing a  
32 determination by the board, the payment of claims, and  
33 rights of subrogation shall be the same as provided in  
34 section 543A.6."

35 2. Page 13, by striking line 21, and inserting  
36 the following:

37 "Sec. \_\_\_\_ . EFFECTIVE DATES.

38 1. Except as provided in subsection 2, this Act  
39 takes effect on October 1,".

40 3. Page 13, by inserting after line 25, the  
41 following:

42 "2. Section 1000 of this Act, being deemed of  
43 immediate importance, takes effect upon enactment."

44 4. Title page, line 2, by striking the words "an  
45 effective date" and inserting the following:  
46 "effective dates".

By RAY TAYLOR

S-3298 FILED APRIL 3, 1991

SENATE FILE 526

S-3257

1 Amend Senate File 526 as follows:

- 2 1. Page 10, line 25, by striking the word "six"  
3 and inserting the following: "nine".  
4 2. Page 10, line 30, by striking the word "three"  
5 and inserting the following: "six".  
6 3. Page 12, line 35, by striking the word "fifty"  
7 and inserting the following: "seventy-five".  
8 4. Page 13, line 6, by striking the word "three"  
9 and inserting the following: "six".

By RAY TAYLOR

S-3257 FILED APRIL 2, 1991