

## F I N A L   R E P O R T

### GRAIN ELEVATOR AND GRAIN GRADING JOINT SUBCOMMITTEE

January, 1981

The Grain Elevator and Grain Grading Joint Subcommittee was created by the Legislative Council in response to House Concurrent Resolution 114 and Senate Concurrent Resolutions 136 and 141 introduced during the 1980 Session.

These Resolutions established two general goals:

1. Investigate the use of moisture meters in relation to the grading and discounting of grain.
2. Consider legislation to prevent financial losses that occur as a result of the operations of grain elevators and grain dealers.

A subcommittee of ten members was appointed to carry out the study, consisting of members of the House and Senate Standing Committees on Agriculture and Commerce. The members of the Subcommittee were Senator Edgar H. Holden and Representative Floyd H. Millen, Co-chairpersons, Senators Irvin L. Bergman, Norman J. Goodwin, Berl E. Priebe, and Cloyd Robinson, and Representatives Philip A. Davitt, Herbert C. Hinkhouse, Robert H. Renken and George R. Swearingen.

The Subcommittee initially was authorized two meetings, and subsequently was given authority for two additional meetings. Meetings were held in Des Moines on August 19, September 18, October 15 and November 17, 1980.

#### MOISTURE MEASURING PRACTICES

The Subcommittee investigated two aspects of moisture measuring practices. The licensing and inspection of moisture measuring devices, and the use of moisture shrinkage factors in grain pricing to compensate for the moisture content of grain. The Subcommittee received information from three principle sources: Mr. Charles Hurburgh of the State University of Iowa, Mr. Gene Martin, a federally licensed grain grader and inspector employed with Central Iowa Grain Inspection Services, Inc., and Mr. James O'Connor of the Weights and Measures Division of the Iowa Department of Agriculture.

#### Moisture Meters

The Subcommittee was advised that a joint Iowa-Illinois Task Force, composed of regulators, educators and industry representatives, had been established to investigate the controversy re-

lating to moisture meters. The Task Force determined that some of the types of moisture meters being sold were inaccurate, and that the manufacturers had submitted new specifications and calibration procedures for these meters. Contrary to some beliefs, the evidence received by the Task Force and relayed to the Subcommittee indicated that the meters registered erroneously low moisture readings as well as erroneously high moisture readings.

The Subcommittee was advised that the results of the efforts of the Task Force will not be available until the end of the 1980 harvest season, and that as of the present time Iowa law appears to be adequate. Two potential amendments were referred to, one to increase the minimum accuracy range for moisture meters from 20 percent moisture to 24 percent moisture, and the other to modify the existing provision which authorizes unapproved meters to be used for up to 30 days without inspection, but the Subcommittee does not make any recommendation on either of these amendments.

The consensus of the Subcommittee seemed to be to await the Task Force conclusions which will follow the end of the 1980 harvest season.

#### Moisture Shrinkage Factors

The Subcommittee received considerable comment regarding the shrinkage factors used by grain handlers. Discussion revolved around two types of factors, one used to compensate for the moisture content of grain, and the other to compensate for grain lost during normal handling that occurs at a warehouse.

Mr. Hurburgh advised the Subcommittee that it has been scientifically determined that when grain is dried to a level of 15.5 percent moisture content, there is a constant 1.18 percent weight loss for each 1 percent moisture reduction, an actual moisture shrinkage factor of 1.18.

Other comments to the Subcommittee indicate that the practice in use in the industry is to combine the moisture shrinkage factor with another factor to account for handling losses, and that the result is a discounting of grain weight by a single factor, the most commonly used one being 1.30 or 1.35.

Present law does not regulate shrinkage factors, and the Subcommittee considered proposals to regulate both moisture shrinkage factors and handling shrinkage factors. The proposals involved both restriction of the actual factor used, and disclosure to the public of the factor used. The general concern of the Subcommittee appeared to be that potential sellers of grain may be unable to compare quoted prices because of the combined discount for moisture and handling losses. The Subcommittee ultimately decided to regulate the moisture shrinkage factor.

### Recommendation

The Subcommittee recommends that a statutory moisture shrinkage factor of 1.18 be established, that notice of the shrinkage factor be given, that separate disclosure of moisture shrinkage adjustments be made, and that penalties be established for violations, as provided in section 1 of the attached draft number one.

### GRAIN ELEVATORS AND GRAIN DEALERS

The bulk of the Subcommittee's investigations involved losses which arise out of the operations of grain elevators and grain dealers. The Subcommittee received a wide variety of commentary on perceived problems and possible solutions. Presentations were made by staff of the Iowa Commerce Commission and the Iowa Insurance Department, grain producers doing business in or around Stockport, Iowa, individual grain dealers and elevator operators, the Farm Division of the Iowa Attorney General's Office, representatives of the Iowa Grain and Feed Association, Agri Business Corporation, and the Iowa Farmers Union, surety companies writing warehouse and grain dealer bonds, a professional farm manager, and representatives of the grain warehouse and grain dealer regulatory agencies of the states of Illinois, Indiana and Missouri.

### Suggested Actions

Comments presented to the Subcommittee contained a variety of criticisms of the present regulatory scheme and numerous suggestions for change. The following is a summary of the comments:

1. Educate the grain producer to recognize the risks involved. This comment was offered in more than one context, and covers the following areas:

a. Knowledge of the various indicators of potential warehouse/grain dealer failure, such as late payment for grain and insufficient funds checks, and of the need for early reporting to the Commerce Commission of these signs.

b. Knowledge of the risks inherent in selling grain on credit, i.e., pursuant to a deferred-payment or deferred-pricing contract.

c. Require that deferred-payment and deferred-pricing contracts contain language to clearly disclose that title to grain prices at the time of delivery to the grain dealer.

d. Require that each grain warehouse post a copy of the report of the audit performed by the Commerce Commission.

e. Knowledge of the methods used to price grain, and the various types of grain sale contracts.

2. Reduce the risk of business failure by means of enhanced regulatory standards. This category also includes various recommendations:

a. Require an elevator to have a minimum positive net worth as a condition of licensure.

b. Restrict or prohibit speculation in grain by grain dealers, particularly with regard to commodities other than those in which the dealer buys and sells.

c. Prevent licensure or relicensure for a specified period of entities whose licenses are revoked or who are controlled by individuals who were in control of another entity whose license was revoked.

d. Establish a statutory minimum ratio for current assets to current liabilities.

e. Establish a statutory minimum for the debt to equity ratio.

f. Establish minimum statutory solvency standards for grain dealers that purchase grain with deferred-pricing contracts. (This proposal is somewhat similar in effect to a requirement for an escrow account for these contracts. However, this proposal relates only to the general solvency of the business and does not create separate security to protect those who sell grain on credit.)

g. Require dealers who purchase grain by delayed-payment contracts to hedge these obligations with future contracts.

h. Prohibit use of out-of-area checking accounts that create "float."

i. Require non-cash buyers to maintain fixed assets that are subject to execution.

j. Limit the use of proceeds from sales of grain purchased by price-later contracts.

3. Sharpen the regulatory tools of the Commerce Commission to secure better regulation of licensees.

a. Require submission of annual third-party audits of a licensee's business.

b. Establish increased criminal penalties to deter violations and to make prosecutions more likely.

c. Authorize the Commerce Commission to standardize business documents, thus facilitating a more close monitoring of business activities.

d. Authorize the Commerce Commission to enter into reciprocity agreements with other states for improved regulation over multi-state businesses.

e. Require grain dealers to meet the standards presently applicable to warehouses with respect to (1) place of business, (2) hours of operation, (3) inspections and recordkeeping, and (4) maintenance of facilities.

f. Require annual inspections of grain dealers.

g. Eliminate the requirement for a specified number of annual warehouse inspections so that Commerce Commission staff can concentrate on problems.

h. Assure that inspections are performed at six-month intervals.

i. Authorize the Commerce Commission to adopt rules as required to assure sound business practices.

4. Provide for greater direct protection of producers against financial losses.

a. Establish an indemnity or guarantee fund financed by a check-off or by assessments to insure producers against losses.

b. Increase the existing bonding requirements.

c. Reduce from 30 to 10 days the period within which a grain dealer must pay for grain purchased on a "cash" basis.

d. Require grain dealers to establish escrow accounts to assure payment of obligations under deferred-payment and/or deferred-pricing contracts.

e. Create an indemnity fund financed by revenues under the grain handlers tax collected under section 428.35 of the Code.

f. Give priority of protections to stored grain and cash sales, which are less risky than deferred-payment and deferred-pricing contracts.

5. Modify practices and procedures of the Commerce Commission to enhance enforcement capabilities.

a. Employ more warehouse division inspectors.

- b. Improve the quality of each inspection.
  - c. Establish higher education and training requirements for inspectors in the areas of accounting, financial analysis and grain merchandising.
  - d. Increase the salaries for warehouse division inspectors.
  - e. Stagger renewal dates of licenses to even out the administrative workload of the warehouse division.
  - f. Require grain processors, feed manufacturers and seed dealers to be licensed.
  - g. Establish new procedures to closely monitor price-later purchases by grain dealers.
6. Funding of regulatory activity.
- a. Increase appropriations for warehouse division operations.
  - b. Increase licensing and other fees payable under warehouse and grain dealer licensing laws.
  - c. Use income generated by a grain producer guaranty fund to offset operating costs of the warehouse division.
  - d. Establish a multiple-class licensing scheme with license fees that reflect differences in the costs of regulating operations of different sizes.
  - e. Authorize the warehouse division to impose hourly charges for performing inspections.
7. Seek uniformity between state and federal warehouse licensure laws.
8. Isolate problems under warehouse and grain dealer laws, respectively, and deal with them as necessary.
9. Minimize cost and paperwork for licensees.

#### Other Guidelines

In addition to the various suggested changes, many of the speakers offered guidelines within which the legislature should confine its actions. These were:

1. Avoid making the state warehouse law (Chapter 543) so costly that licensees seek federal licensure. On several occasions discussions centered on the problem posed by the existence of the federal warehouse law. That federal statute authorizes the United States Department of Agriculture to issue licenses in its discretion

to grain warehouses. Once licensed under federal law, these warehouses become exempt from state warehouse laws by virtue of federal law. Several speakers suggested that any increase in state warehouse license fees or any other modification that has the effect of increasing warehouse operating costs will tend to encourage warehouses to seek federal licensure as a means of avoiding this additional burden. Thus, the General Assembly is restricted in the extent to which it can improve grain warehousing practices.

2. Proposed solutions should be evaluated in terms of potentially adverse effects on the existing grain marketing system.

3. The grain marketing system has some inherent risks, and the legislature cannot eliminate these risks.

4. Most warehouse failures result from simultaneous grain dealer activities.

5. The legislature should not attempt to protect producers from all risks of loss, even if a guaranty fund is provided for.

6. Existing requirements that licensees carry a bond should not be eliminated, even if a guaranty fund is established, as bonding companies perform a valuable function through the screening of license applicants.

7. Instability in grain prices tends to lead to a relatively greater number of licensee business failures.

8. Losses of producers are often caused by dishonesty, greed, mistake or bad judgment, and legislation cannot prevent those types of losses.

9. Producer loss indemnity funds may tend to give producers a false sense of security, thus reducing the caution they should exercise in grain transactions.

10. Loss indemnity, whether through the private insurance mechanism or some other type of fund, is typically designed to protect against fortuitous or naturally occurring events, and thus may not be appropriate to insure against losses resulting from intentional acts of licensees.

#### Subcommittee Recommendations

The Subcommittee adopted the following recommendations as an attempt to reduce the losses incurred by grain producers through grain elevator and grain dealer business failures:

1. Regulate those grain dealers who purchase grain on credit-sale contracts (deferred-payment and deferred-pricing contracts) by requiring prior notice to the Commerce Commission, and enhanced

accounting and solvency standards, similar to the requirements of Illinois law. Draft language to accomplish the recommendation is included as section 2 of attached bill draft number one.

The purpose of this section is to attempt to assure that those grain dealers who purchase grain on a credit basis will maintain a solvent business position, thus enabling them to satisfy their credit obligations.

2. Eliminate the discretion given to the Commerce Commission to disclose financial information about warehouse and grain dealer licensees. Sections 3, 4 and 12 of bill draft number one contain language to accomplish this recommendation.

The purpose of this recommendation is to protect the state from possible tort claims as a result of actionable "abuses of discretion" in the release of financial information about licensees.

3. Authorize the Commerce Commission to adopt rules to standardize records and documents used by licensees; and require that scale tickets, issued at the time of grain deliveries, accurately reflect the nature of the transactions being undertaken. Sections 5 and 6 of bill draft number one contain the recommended language.

The purpose of these provisions is to improve the regulatory framework by promoting more accurate and identifiable licensee records. The language anticipates that the Commerce Commission will be able to more closely monitor licensee grain transactions and identify potential problems.

4. Adjust the criminal penalties for the various violations of the licensing laws. Sections 7 and 8 of bill draft number one contain the recommended penalties.

The purpose of these recommendations is two-fold: First to attempt to deter potential violations; and second to attempt to promote prosecution of offenses. Existing law provides that violations are simple misdemeanors. Most observers agree that violators scoff at the potential penalties for illegal activity, and that prosecutors will not or cannot commit the time needed to prosecute these actions. It is anticipated that the recommended changes will more appropriately recognize the serious nature of certain violations and will encourage prosecutions where warranted.

5. Require that grain dealers be inspected at least twice each year, and allow the Commerce Commission to inspect warehouses and grain dealers more often than twice each year when circumstances so dictate. Sections 9 and 10 of draft number one are intended to accomplish these purposes.

The purpose of the Subcommittee's recommendations relating to the frequency of inspections is to assure that the Commerce Commission maintain regular surveillance of all licensees. While some arguments support a discretionary inspection scheme, the Subcommittee opposes that alternative.

6. Restrict speculation in commodities by licensed grain dealers. Section 11 of draft number one contains proposed language, based upon the Illinois statute.

The purpose of this recommendation is to enable the Commerce Commission to regulate excessive speculation by licensees, which is cited as a contributing cause of grain dealer financial failure. The Subcommittee recommends that further refinement of the language be considered to eliminate potential constitutional questions regarding the delegation of authority to the Commerce Commission.

7. Establish an apprenticeship program for warehouse division inspectors, and reclassify positions of employment to create separate positions for warehouse facility inspectors and records auditors.

The purpose of this recommendation is to attempt to deal with what appears to be a chronic shortage of personnel in the warehouse division. While additional personnel also are recommended (see discussion below), existing circumstances indicate the inability to maintain staff numbers even at the level authorized by the General Assembly. The Subcommittee believes that the chronic shortage of qualified staff may be caused by excessive minimum requirements for new employees, and excessively diverse duties for the position of warehouse inspectors.

The Subcommittee recommends that the Commerce Commission and the Merit Employment Department establish an apprenticeship program, with the expectation that while employment qualifications temporarily will be reduced, training given during the probationary period will produce effective permanent employees. The Subcommittee also recommends that by isolating those duties relating to physical inspection of warehouse facilities from those duties relating to the auditing of records, the Commerce Commission may be able to attract and retain qualified employees for each type of duty, through the elimination of job dissatisfaction caused by the existing combination of mismatched duties.

7. Increase the numbers of personnel authorized for the warehouse division of the Commerce Commission, and modify existing fees and establish new fees to offset the additional costs.

a. The attached draft number two contains specific Subcommittee recommendations with respect to the proposed fee schedule for licensed warehouses.

The Subcommittee believes these adjustments are appropriate, yet not excessive.

b. The Subcommittee further recommends that the Commerce Commission submit to the General Assembly convening in 1981 a proposal for revising the fee schedule for licensed grain dealers so that the additional revenue, when combined with the additional revenue generated under recommendation "a", will increase the total revenue of the warehouse division by \$500,000.

c. The Subcommittee recommends that the additional \$500,000 in revenue to be generated under recommendations "a" and "b" be used to fund additional personnel in the warehouse division of the Commerce Commission, as recommended by the Commission. These would include one office accountant, one supervisor of inspections, three field supervisors and seven field examiners.

PROPOSED SENATE/HOUSE FILE \_\_\_\_\_

By (PROPOSED COMMITTEE ON  
AGRICULTURE OR COMMITTEE ON  
COMMERCE BILL BY THE GRAIN  
WAREHOUSE AND GRAIN GRADING  
JOINT SUBCOMMITTEE)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to transactions involving the storage, process-  
2 ing or sale of grain, and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
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1 Section 1. Chapter 215A, Code 1981, is amended by adding  
2 the following new section:

3 NEW SECTION. MOISTURE SHRINKAGE ADJUSTMENT--DISCLOSURE-  
4 -PENALTIES.

5 1. As used in this section, "grain" means corn or soybeans.

6 2. A person who, in connection with the receipt of grain  
7 for storage, processing, or sale, adjusts the scale weight  
8 of the grain to compensate for the moisture content of the  
9 grain shall compute the amount of the adjustment by multiplying  
10 the scale weight of the grain by that factor which results  
11 in a rate of adjustment of one and eighteen hundredths percent  
12 of weight per one percent of moisture content.

13 3. The use of any rate of weight adjustment for moisture  
14 content other than the one prescribed by subsection 2 is a  
15 fraudulent practice.

16 4. A person who, in connection with the receipt of grain  
17 for storage, processing, or sale, adjusts the scale weight  
18 of the grain to compensate for the moisture content of the  
19 grain shall disclose in writing the amount of weight adjustment  
20 attributable solely to moisture content and shall identify  
21 the amount disclosed by the words "moisture shrinkage" or  
22 other words which disclose that the weight adjustment is  
23 attributable solely to the moisture content of the grain.  
24 The person also shall post, on the business premises in a  
25 conspicuous place, notice of the rate of adjustment for  
26 moisture content that is prescribed by subsection 2.

27 5. Failure to make either of the disclosures required  
28 by subsection 4 is a simple misdemeanor.

29 6. This section does not prohibit the parties to a  
30 transaction from agreeing to other weight adjustments for  
31 other purposes.

32 Sec. 2. Chapter 542, Code 1981, is amended by adding the  
33 following new section:

34 NEW SECTION. CREDIT-SALE CONTRACTS.

35 1. As used in this section, "credit-sale contract" means

1 a contract for the sale of grain pursuant to which the sale  
2 price is to be paid at a date subsequent to the delivery of  
3 the grain to the buyer, and includes but is not necessarily  
4 limited to those contracts commonly referred to as deferred-  
5 payment contracts, deferred-pricing contracts and price-later  
6 contracts.

7 2. A grain dealer shall not purchase grain by a credit-  
8 sale contract except as provided in this section.

9 3. A grain dealer shall give written notice to the  
10 commission prior to engaging in the purchase of grain by  
11 credit-sale contracts. Notice shall be on forms provided  
12 by the commission. The notice shall contain information  
13 required by the commission, and shall include the method of  
14 price protection to be used as required by subsection 6.

15 4. All credit-sale contract forms in the possession of  
16 a grain dealer shall be permanently and consecutively numbered.  
17 A grain dealer shall maintain an accurate record of all credit-  
18 sale contract forms obtained by that dealer. The record shall  
19 include the disposition of each numbered form, whether by  
20 execution, destruction, or otherwise.

21 5. A grain dealer who purchases grain by credit-sale  
22 contracts shall at all times maintain assets that are equal  
23 to at least eighty percent of the dealer's liabilities under  
24 outstanding credit-sale contracts and that are evidenced or  
25 represented by one or more of the following:

26 a. Grain owned by the dealer and held in the dealer's  
27 storage facilities.

28 b. Warehouse receipts or scale tickets meeting the  
29 requirements of chapter 543, and issued to the dealer by a  
30 licensed warehouse doing business in this state, and  
31 representing dealer-owned grain.

32 c. Warehouse receipts issued to the dealer pursuant to  
33 section 543.39 for grain owned by the dealer.

34 d. Proceeds from the sale of grain purchased under credit-  
35 sale contracts, evidenced or represented by one or more of

1 the following:

2 (1) Cash on hand or cash held on account in federally  
3 or state regulated financial institutions.

4 (2) Short-term investments held in time accounts with  
5 federally or state regulated financial institutions.

6 (3) Balances on grain margin accounts.

7 (4) Price-later or deferred-pricing contracts for grain  
8 shipped to a processor or terminal as purchaser, less any  
9 payment or advance that has been received; provided that the  
10 price term of the contract remains open.

11 (5) Other evidence of proceeds from or of grain as approved  
12 by the commission, including but not limited to an irrevocable  
13 letter of credit.

14 6. A grain dealer purchasing grain by credit-sale contracts  
15 shall practice an effective method of price protection, as  
16 approved by the commission, sufficient to protect the dealer  
17 against market fluctuations, including but not limited to  
18 the procurement of options on a licensed commodity exchange.

19 7. The duration of a credit-sale contract shall not exceed  
20 twelve months from the date delivery of grain covered by the  
21 contract is completed. Title to all grain sold by a credit-  
22 sale contract shall be in the purchasing dealer as of the  
23 time of delivery of the grain to the dealer.

24 8. Storage charges shall not be made with respect to grain  
25 purchased by a credit-sale contract, except for storage charges  
26 incurred prior to the date of sale. A service charge may  
27 be made.

28 9. All scale tickets or other documents relating to grain  
29 purchased by credit-sale contracts shall contain the words  
30 "Sold Grain; Credit-Sale" permanently imprinted by a method  
31 approved by the commission.

32 10. For the purpose of computing the dollar value of  
33 inventories and obligations relating to those types of  
34 contracts in which the price is determined subsequent to the  
35 date of sale, the value of grain shall be the current market

1 value as of the time of computation.

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

6 Sec. 3. Chapter 542, Code 1981, is amended by adding the  
7 following new section:

8 NEW SECTION. CONFIDENTIALITY OF RECORDS.

9 1. All records of the commerce commission relating to  
10 the regulation of grain dealers under this chapter are public  
11 records and subject to examination by the public under chapter  
12 68A, except as specifically provided in subsection 2.

13 2. All papers, documents, reports, reports of examinations,  
14 and other information relating to the financial condition  
15 of a grain dealer shall be kept confidential by the commission  
16 and its agents and employees and are not subject to disclosure  
17 except as follows:

18 a. In actions or administrative proceedings commenced  
19 under this chapter.

20 b. When required by subpoena or other court orders.

21 c. Disclosure to law enforcement agencies in regard to  
22 the detection and prosecution of public offenses.

23 d. Where disclosure is otherwise required or authorized  
24 by this chapter.

25 Sec. 4. Chapter 543, Code 1981, is amended by adding the  
26 following new section:

27 NEW SECTION. CONFIDENTIALITY OF RECORDS.

28 1. All records of the commerce commission relating to  
29 the regulation of warehouses under this chapter are public  
30 records and subject to examination by the public under chapter  
31 68A, except as specifically provided in subsection 2.

32 2. All papers, documents, reports, reports of examinations  
33 and other information relating to the financial condition  
34 of a warehouse shall be kept confidential by the commission  
35 and its agents and employees and are not subject to disclosure

1 except as follows:

2 a. In actions or administrative proceedings commenced  
3 under this chapter.

4 b. When required by subpoena or other court orders.

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

7 d. When disclosure is otherwise required or authorized  
8 by this chapter.

9 Sec. 5. Chapter 542, Code 1981, is amended by adding the  
10 following new section:

11 NEW SECTION. STANDARDIZATION OF RECORDS AND DOCUMENTS.

12 1. The commission may adopt rules specifying the form  
13 and content of scale tickets, deferred payment contracts,  
14 and deferred pricing and payment contracts used by grain  
15 dealers. The commission may prescribe a uniform numbering  
16 system to be used in this state for the purpose of identifying  
17 scale tickets and contracts executed or issued by the  
18 respective grain dealers. Rules establishing this uniform  
19 numbering system may require registration with and approval  
20 by the commission of all numbers to be used by the respective  
21 licensees, and may include other requirements as necessary  
22 to assure the security of the uniform numbering system and  
23 the enforcement of this chapter.

24 2. Each scale ticket form used by a grain dealer shall  
25 include, in addition to other information required by rule,  
26 appropriate symbols to enable the grain dealer to indicate  
27 whether purchased grain is received pursuant to a cash sale,  
28 a deferred payment contract, or a deferred pricing and payment  
29 contract. The grain dealer shall indicate the type of sale  
30 transaction at the time the scale ticket is issued.

31 Sec. 6. Chapter 543, Code 1981, is amended by adding the  
32 following new section:

33 NEW SECTION. STANDARDIZATION OF RECORDS AND DOCUMENTS.

34 1. The commission may adopt rules specifying the form  
35 and content of scale tickets, warehouse receipts, and other

1 documents used by licensed warehouses. The commission may  
 2 prescribe a uniform numbering system to be used in this state  
 3 for the purpose of identifying scale tickets, warehouse  
 4 receipts, and other documents executed or issued by the  
 5 respective licensed warehouses. Rules establishing this  
 6 uniform numbering system may require registration with and  
 7 approval by the commission of all numbers to be used by the  
 8 respective licensees, and may include other requirements as  
 9 necessary to assure the security of the uniform numbering  
 10 system and the enforcement of this chapter.

11 2. Each scale ticket form used by a licensed warehouse  
 12 shall include, in addition to other information required by  
 13 rule, appropriate symbols to enable the warehouseman to  
 14 indicate whether grain is received pursuant to a cash sale,  
 15 a deferred payment sale contract, or a deferred pricing and  
 16 payment sale contract, or for storage under a warehouse receipt  
 17 or in open storage, or for other purposes. The warehouseman  
 18 shall indicate the specific type of transaction at the time  
 19 the scale ticket is issued.

20 Sec. 7. Section 542.11, Code 1981, is amended to read  
 21 as follows:

22 542.11 PENALTIES--MISDEMEANOR INJUNCTIONS. Any person  
 23 ~~who engages in business as a grain dealer without obtaining~~  
 24 ~~a license or any person in violation of any other provision~~  
 25 ~~of this chapter, or any grain dealer who refuses to permit~~  
 26 ~~inspection of his or her premises, books, accounts or records~~  
 27 ~~as provided in this chapter, shall be guilty of a simple mis-~~  
 28 ~~demeanor.--Each day that any violation continues shall~~  
 29 ~~constitute a separate offense.--Any person violating the~~  
 30 ~~provisions of this chapter may be restrained by an injunction.~~

31 1. A person who knowingly submits false information to  
 32 the commission or any of its employees in a document or a  
 33 book, account, or record required to be submitted or main-  
 34 tained under this chapter, commits a fraudulent practice.

35 2. A person who engages in business as a grain dealer

1 without obtaining a license, or who refuses to permit  
2 inspection of licensed premises, or books, accounts, records,  
3 or other documents required by this chapter, or who uses a  
4 scale ticket, deferred payment contract, or deferred pricing  
5 and payment contract that fails to satisfy requirements  
6 established by the commission commits a serious misdemeanor,  
7 except that a person who commits any of these offenses after  
8 having been found guilty of the same offense commits an  
9 aggravated misdemeanor.

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

14 4. A violation of this chapter, or a violation of chap-  
15 ter 714 or 715 involving the business of a grain dealer, may  
16 be restrained by an injunction in an action brought by the  
17 commerce commission.

18 Sec. 8. Section 543.36, Code 1981, is amended to read  
19 as follows:

20 543.36 PENALTIES--MISDEMEANOR INJUNCTION. Every person  
21 who violates or fails to comply with any of the provisions  
22 of this chapter or to comply with any lawfully authorized  
23 order, direction, demand, or rule or regulation of the  
24 commission shall be guilty of a simple misdemeanor.

25 1. A person who knowingly submits false information to  
26 the commission or any of its employees in a document or a  
27 book, account, or record required to be submitted or maintained  
28 under this chapter commits a fraudulent practice.

29 2. A person who engages in business as a warehouseman  
30 without obtaining a license, or who refuses to permit  
31 inspection of licensed premises, or books, accounts, records  
32 or other documents required by this chapter, or who uses a  
33 scale ticket, warehouse receipt or other document which fails  
34 to satisfy requirements established by the commission commits  
35 a serious misdemeanor, except that a person who commits any

1 of these offenses after having been found guilty of the same  
2 offense commits an aggravated misdemeanor.

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

7 4. A violation of this chapter, or a violation of chap-  
8 ter 714 or 715 involving the business of a warehouseman, may  
9 be restrained by injunction in an action brought by the  
10 commerce commission.

11 Sec. 9. Section 542.2, Code 1981, is amended to read as  
12 follows:

13 542.2 DUTIES AND POWERS OF THE COMMISSION. The commission  
14 may exercise general supervision over the business operations  
15 of grain dealers. The supervisory and regulatory powers  
16 authorized by this chapter ~~shall-be~~ are the responsibility  
17 of the warehouse division of the commission. The commission  
18 may inspect or cause to be inspected any grain dealer operating  
19 in this state and. Inspections may be made at times and for  
20 purposes as the commission determines; provided that the  
21 commission shall inspect or cause to be inspected every grain  
22 dealer at least twice in every twelve-month period. The  
23 commissioner may require the filing of reports pertaining  
24 to the operation of his business as a grain dealer. The  
25 commission shall adopt rules to provide for the efficient  
26 administration and regulation of ~~the-provisions-of~~ this  
27 chapter, and may designate an employee of the commission to  
28 act for the commission in any details connected with such  
29 administration, including the issuance of licenses and approval  
30 of grain dealers' bonds in the name of the commission.

31 Sec. 10. Section 543.2, Code 1981, is amended to read  
32 as follows:

33 543.2 DUTIES AND POWERS OF THE COMMISSION. The commission  
34 ~~is-authorized-to~~ may exercise general supervision over the  
35 storage, warehousing, classifying according to grade or

1 otherwise, weighing, and certification of agricultural  
2 products. The commission may inspect or cause to be inspected  
3 any warehouse ~~and~~. Inspections may be made at times and for  
4 purposes as the commission determines; provided that the  
5 commission shall inspect or cause to be inspected every  
6 licensed warehouse and its contents at least twice in every  
7 twelve-month period. The commission may require the filing  
8 of reports ~~describing-any~~ relating to a warehouse or the its  
9 operation thereof. If upon ~~any-such~~ inspection a deficiency  
10 is found to exist as to the quantity or quality of agricultural  
11 products stored, as indicated on the warehouseman's books  
12 and records according to official grain standards, the  
13 commission ~~shall-have-the-authority-to,-and~~ may require an  
14 employee of the commission to remain at the licensed warehouse  
15 and supervise all operations conducted ~~thereat~~ there involving  
16 agricultural products stored ~~under the-provisions-of~~ this  
17 chapter until the deficiency is corrected. The ~~commission~~  
18 ~~shall-inspect-or-cause-to-be-inspected-every-licensed-warehouse~~  
19 ~~and-the-contents-thereof-not-less-than-once-every-six-months~~  
20 ~~and-the~~ commission ~~shall-have-authority-to~~ may make available  
21 to the United States government, or any of its agencies,  
22 including the Commodity Credit Corporation, the results of  
23 inspections made and inspection reports submitted to it by  
24 employees of the commission, upon payment to it of ~~such~~ charges  
25 ~~as may-be~~ determined by the commission, but ~~in-no-event-shall~~  
26 ~~such~~ the charges shall not be less than the actual cost of  
27 ~~such~~ services rendered ~~in-regard-thereto~~, as determined by  
28 the commission. The commission ~~shall-have-authority-to~~ may  
29 enter into contracts and agreements for such purpose and shall  
30 keep a record of all money thus received. All such money  
31 shall be paid over to the treasurer of state as miscellaneous  
32 receipts. The commission may classify any warehouse in  
33 accordance with its suitability for the storage of agricultural  
34 products and shall specify in any license issued for the  
35 operation of any warehouse the type or types and the quantity

1 of agricultural products which may be exclusively stored in  
2 such warehouse. The commission may prescribe, within the  
3 limitations of this chapter, the duties of licensed  
4 warehousemen with respect to the care of and responsibility  
5 for the contents of licensed warehouses. Grain grades shall  
6 be determined under the official grain standards. The  
7 commission may from time to time publish such data in  
8 connection with the administration of this chapter as may  
9 be of public interest. The commission shall ~~have the duty~~  
10 ~~of administration of the further provisions of~~ administer  
11 this chapter.

12 Sec. 11. Chapter 542, Code 1981, is amended by adding  
13 the following new section:

14 NEW SECTION. SPECULATION REGULATED. A grain dealer who  
15 is in a speculative position in excess of normal grain  
16 merchandising practices, as determined by rules adopted by  
17 the commission, is in violation of this chapter.

18 Sec. 12. Section 68A.7, subsection 12, Code 1981, is  
19 amended by striking the subsection.

20 EXPLANATION

21 This bill relates to the regulation of transactions  
22 involving the storage, processing, or sale of grain,  
23 particularly with respect to transactions undertaken by  
24 licensed warehouses and grain dealers.

25 Section 1 of this bill is a new provision which specifies  
26 that any person who adjusts the scale weight of corn or  
27 soybeans in connection with storage, processing, or sale to  
28 compensate for moisture content must use a shrinkage factor  
29 that results in a rate of adjustment of 1.18 percent of weight  
30 per 1.00 percent of moisture. The section also requires  
31 disclosure of the amount of adjustment attributable exclusively  
32 to moisture content, and the posting of notice of the lawful  
33 rate of adjustment for moisture shrinkage. Use of any rate  
34 of adjustment other than the prescribed rate is punishable  
35 as a fraudulent practice. Violation of the disclosure or

1 posting requirements is a simple misdemeanor.

2 Section 2 is a new provision regulating the use of deferred-  
3 payment contracts and deferred-pricing and payment contracts  
4 by grain dealers, and requires prior notice to the commission,  
5 the use of numbered contract forms, the maintenance of certain  
6 assets to help to assure payment to producers, and the use  
7 of option contracts or other approved methods as protection  
8 against price fluctuations. This section is patterned after  
9 the Illinois law, but regulates fixed-price deferred-payment  
10 contracts in addition to price-later contracts. As written,  
11 the section applies to any type of contract in which payment  
12 is made by the grain dealer after the grain dealer receives  
13 delivery of the grain.

14 Sections 3, 4 and 12 relate to the confidentiality of  
15 financial information about grain dealers and warehouses in  
16 the possession of the commerce commission. Section 12 removes  
17 the reference in chapter 68A that gives the commerce commission  
18 discretion to disclose this information. Sections 3 and 4  
19 add new language to chapters 542 and 543 to make financial  
20 information confidential, subject only to subpoena or to  
21 disclosure for law enforcement purposes.

22 Sections 5 and 6 add new language to chapters 542 and 543  
23 to enable the commerce commission to require grain dealers  
24 and warehouses to use standardized forms and documents. They  
25 also require a grain dealer or warehouseman to indicate on  
26 the scale ticket at the time grain is received whether the  
27 grain is received for sale, storage or other purposes.

28 Sections 7 and 8 amend chapters 542 and 543 to modify the  
29 penalties for violations. Presently, all violations are  
30 simple misdemeanors. As revised, violation of the licensing  
31 requirements, refusal to permit inspection of books and  
32 records, or use of documents or document forms not approved  
33 by the commission would be a serious misdemeanor for the first  
34 offense and an aggravated misdemeanor for subsequent offenses.  
35 Submission of false information to the commission would be

1 a fraudulent practice. Other violations would continue to  
2 be simple misdemeanors. Language also is added to authorize  
3 the issuance of injunctions to restrain criminal offenses.

4 Section 9 adds new language in chapter 542 to require the  
5 commission to inspect grain dealers at least twice in each  
6 twelve-month period. This is a new requirement.

7 Section 10 amends chapter 543 to require that the commission  
8 inspect warehouses at least twice in each twelve-month period.

9 Section 11 amends chapter 542 to permit the commerce  
10 commission to regulate speculation by a grain dealer. This  
11 provision is the same as an Illinois statute.

12 The bill would take effect July 1 following enactment.

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PROPOSED SENATE/HOUSE FILE \_\_\_\_\_

By (PROPOSED COMMITTEE ON COMMERCE  
BILL BY THE GRAIN WAREHOUSE AND  
GRAIN GRADING JOINT SUBCOMMITTEE)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to the fees to be collected in connection with  
2 regulatory activities of the warehouse division of the Iowa  
3 state commerce commission.

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

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1 Section 1. Section 542.6, subsection 4, Code 1981, is  
2 amended to read as follows:

3 4. A fee of ~~one-dollar-will~~ ten dollars shall be charged  
4 for each duplicate identification to be used on any a vehicle.

5 Sec. 2. Section 453.6, Code 1981, is amended to read as  
6 follows:

7 543.6 ISSUANCE OF LICENSE AND FINANCIAL RESPONSIBILITY.

8 The commission is authorized, upon application to it, to issue  
9 to any warehouseman or to any person about to become a  
10 warehouseman a license or licenses for the operation of a  
11 warehouse or warehouses in accordance with ~~the provisions~~  
12 ~~of~~ this chapter and ~~such~~ rules as ~~may be~~ made by the commission  
13 under the authority of section 543.5. A single license may  
14 be issued for the operation of two or more commonly owned  
15 warehouses located in the same city ~~and operated by the same~~  
16 ~~warehouseman--A license to operate two or more warehouses~~  
17 or located within a twenty-five mile radius of a central  
18 office ~~may be issued, but a separate fee shall be charged~~  
19 ~~for each station.~~ An application for a warehouse license  
20 shall be accompanied by a complete financial statement of  
21 the applicant setting forth the assets, liabilities and net  
22 worth of the applicant. The financial statement must be  
23 prepared according to normally accepted accounting principles.  
24 Assets shall be shown at original cost less depreciation.  
25 Upon petition being filed with the commission, the commission  
26 may allow asset valuations in accordance with a competent  
27 appraisal. Deferred pricing contracts shall be shown as a  
28 liability and valued at the applicable current market price  
29 of grain as of the date the financial statement is prepared.  
30 In order to receive and retain a license the applicant must  
31 have and maintain a net worth of at least twenty-five thousand  
32 dollars or provide bond in addition to that required by section  
33 543.12 in the amount of two thousand dollars for each one  
34 thousand dollars or fraction thereof of net worth deficiency.  
35 Sec. 3. Section 543.33, Code 1981, is amended by striking

1 the section and inserting in lieu thereof the following:

2 543.33 FEES. The commission shall charge the following  
3 fees:

4 1. For the issuance or renewal of a license, a fee  
5 determined as follows:

6 a. With respect to a warehouse license for the storage  
7 of bulk grain:

8 (1) If the total storage capacity is one hundred thousand  
9 bushels or less, a fee of thirty dollars.

10 (2) If the total storage capacity is greater than one  
11 hundred thousand bushels but not more than five hundred thousand  
12 bushels, a fee of fifty dollars.

13 (3) If the total storage capacity exceeds five hundred  
14 thousand bushels, a fee of one hundred dollars.

15 b. With respect to a warehouse license for the storage  
16 of products other than bulk grain:

17 (1) For intended storage of products of a value of one  
18 hundred thousand dollars or less, a fee of thirty dollars.

19 (2) For intended storage of products of a value greater  
20 than one hundred thousand dollars but not greater than three  
21 hundred thousand dollars, a fee of fifty dollars.

22 (3) For intended storage of products of a value in excess  
23 of three hundred thousand dollars, a fee of one hundred  
24 dollars.

25 2. For each examination or inspection of a warehouse,  
26 a fee of twenty-five dollars.

27 3. For each amendment of a license, a fee of ten dol-  
28 lars.

29 4. For each amendment of a tariff, a fee of ten dollars.

30 5. For the cost of maintaining an employee of the commis-  
31 sion at a warehouse to supervise the correction of a  
32 deficiency, a fee of one hundred fifty dollars per day.

33 All fees received by the commission shall be paid over  
34 to the treasurer of state as miscellaneous receipts.

35 Sec. 4. Section 543.37, Code 1981, is amended to read

1 as follows:

2 543.37 FAILURE TO PAY FEE. Failure to pay the annual  
3 fee provided for in section 543.33 on or before the date the  
4 ~~same shall become~~ it becomes due shall cause a license to  
5 terminate. The annual fee ~~shall become~~ becomes due on June  
6 30 each year. A warehouse license which has terminated may  
7 be reinstated by the commission upon receipt of a proper  
8 renewal application, current financial statement, renewal  
9 fee and a penalty fee in the amount of ~~ten~~ twenty-five dollars  
10 from the warehouse ~~if such are~~ filed within thirty days from  
11 the date of termination of the warehouse license. The  
12 commission may cancel the license upon request of the licensee  
13 unless a complaint or information is filed against the licensee  
14 alleging a violation of a provision of this chapter.  
15 Sec. 5. This Act applies to any license year commencing  
16 on or within thirty days prior to the effective date of this  
17 Act, and to each license year thereafter.

18 EXPLANATION

19 This bill modifies certain fees collected by the warehouse  
20 division of the Iowa state commerce commission for regulation  
21 of grain dealers and grain warehouses.

22 Section 1 increases from \$1 to \$10 the fee for issuance  
23 of a duplicate grain dealer truck identification plate.

24 Sections 2 and 3 increase all of the fees collected from  
25 licensed warehouses. The amount of the new license fee would  
26 depend upon the total storage capacity operated by the  
27 licensee, and new charges would be imposed for amending a  
28 license or tariff.

29 Section 4 increases from \$10 to \$25 the penalty charge  
30 for late payment of the annual fee.

31 The bill takes effect July 1 following enactment.

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