

Reprinted 5/7/81

HOUSE FILE 841

BY COMMITTEE ON WAYS AND MEANS

(Formerly House File 830)

Passed House, Date 5-4-81 (H 1613) Passed Senate, Date 5/22/81 (P. 1843)

Vote: Ayes 84 Nays 9 Vote: Ayes 46 Nays 1

Approved 6/13/81

Amended to conform to Senate bill 5/5/81 (H 1651)

A BILL FOR

1 An Act relating to transactions involving the storage
 2 or sale of grain, and providing penalties.
 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
 4
 5
 6
 7
 8
 9

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

The text of this bill, and explanation, are identical
 to House File 830

1 Section 1. Sections 2 through 15 of this Act are enacted
2 as a new chapter of the Code.

3 Sec. 2. NEW SECTION. PURPOSE OF THE IOWA GRAIN PRODUCER
4 INSURANCE FUND. The purpose of this chapter is to generate
5 confidence in the grain marketing system in this state through
6 the establishment of a grain producer insurance fund. The
7 general assembly finds that providing for financial security
8 in grain storage and sale transactions is essential to the
9 continued well-being of grain producers and a sound marketing
10 system. The general assembly also finds that the provisions
11 of this chapter serve an essential public purpose by protecting
12 grain producers, by creating confidence in grain warehouses
13 and grain dealers, by assuring the expectations of businesses
14 and industries that contribute to or support the production
15 and marketing of grain, and by stabilizing the economy of
16 this state.

17 Sec. 3. NEW SECTION. DEFINITIONS. As used in this
18 chapter, unless the context otherwise requires:

- 19 1. "Grain" means as defined in section 542.1.
- 20 2. "Grain handler" means either of the following:
 - 21 a. A grain dealer licensed under chapter 542.
 - 22 b. A warehouse licensed under chapter 543.
- 23 3. "Full market value" means the value required by law
24 to be used by insurance underwriters in paying the actual
25 cash value for losses of grain.
- 26 4. "Insurance fund" means the grain producer insurance
27 fund established under section 4 of this Act.
- 28 5. "Trustee" means the trustee appointed under section
29 5 of this Act by the Iowa state commerce commission.

30 Sec. 4. NEW SECTION. IOWA GRAIN PRODUCER INSURANCE FUND
31 ESTABLISHED--TRUSTEE.

32 1. There is established a grain producer insurance fund,
33 which shall be a perpetual trust fund to be administered as
34 provided in this chapter for the benefit of the producers
35 of grain who deliver grain to a grain handler in this state

1 for purposes of storage or sale.

2 2. The insurance fund shall consist of income from
3 assessments and subrogation rights under this chapter, plus
4 interest or earnings, less disbursements permitted by this
5 chapter.

6 3. The insurance fund shall be administered by the trustee.

7 4. The trustee shall deliver the assets of the insurance
8 fund to the custody of the treasurer of state, who shall
9 disburse money from the insurance fund only upon the direction
10 of the trustee. The treasurer of state shall invest the money
11 held in the insurance fund, but investments shall be limited
12 to short-term, highly liquid securities. The assets of the
13 insurance fund shall be maintained separate from any other
14 funds in the custody of the treasurer of state.

15 Sec. 5. NEW SECTION. DUTIES OF TRUSTEE.

16 1. The Iowa state commerce commission shall appoint a
17 person to serve as trustee of the insurance fund, who may
18 be removed from office as provided in chapter 68. The trustee
19 shall not have any duties other than those provided in this
20 chapter.

21 2. The trustee shall have the powers, duties and
22 responsibilities of a fiduciary with respect to the insurance
23 fund. The insurance fund shall be administered according
24 to the laws of this state governing the administration of
25 trusts; provided that the provisions of this chapter shall
26 supersede any conflicting provisions of the laws of this state
27 relating to the administration of trusts.

28 3. The trustee shall have exclusive authority to consider,
29 ascertain, adjust, compromise, settle, determine and allow
30 or disapprove a claim against the insurance fund, subject
31 only to judicial review.

32 4. The trustee shall commence or appear in actions or
33 proceedings as necessary in the administration of this chapter.

34 5. The trustee shall have exclusive authority to administer
35 this chapter and the insurance fund.

1 Sec. 6. NEW SECTION. ASSESSMENTS.

2 1. There shall be an assessment at the rate of one mill
3 per dollar of value upon all grain that is delivered by a
4 grain producer to a grain handler for storage or that is sold
5 by a grain producer to a grain handler during a fiscal year
6 when the assessment is in effect. Grain shall not be subject
7 to more than one assessment.

8 2. The trustee shall determine the unencumbered balance
9 of the insurance fund as of the close of each fiscal year,
10 ending June 30. If the unencumbered balance of the insurance
11 fund as of the end of a fiscal year is less than ten million
12 dollars, the trustee shall issue a notice declaring that the
13 assessment shall be in effect for the following fiscal year,
14 commencing on the date specified in the notice. If the
15 unencumbered balance of the insurance fund as of the end of
16 a fiscal year is ten million dollars or more, assessments
17 shall not be payable during the following fiscal year.

18 3. The trustee shall cause the notice specified in
19 subsection 2 to be published in a newspaper of general
20 circulation in this state. Publication shall be at least
21 one week prior to the date upon which the assessment commences.

22 Sec. 7. NEW SECTION. COLLECTION OF ASSESSMENTS--
23 REMITTANCE--PENALTY.

24 1. A grain handler shall collect the assessment specified
25 in section 6 of this Act for each assessable transaction.
26 An assessable transaction is one that occurs on a day on which
27 the assessment is in effect, as determined under section 6.
28 For purposes of this subsection, the date of occurrence of
29 a transaction is as follows:

30 a. A storage transaction occurs on the date grain is
31 delivered by the producer to a warehouse.

32 b. A sale transaction occurs on the date of execution
33 of the contract of sale, irrespective of the date of delivery.

34 2. The time of collection of the assessment that is due
35 on an assessable transaction is as follows:

1 a. With respect to stored grain that is returned to the
2 producer, the assessment shall be collected from the producer
3 at the time the grain is returned to the producer by the grain
4 handler. The amount of the assessment shall be calculated
5 by multiplying the assessment rate specified in section 6,
6 subsection 1, of this Act by the market value of the grain
7 as of the day the grain is returned to the producer.

8 b. With respect to grain that is sold to the grain handler,
9 including grain previously delivered to the grain handler
10 for storage, the assessment shall be collected from the
11 producer at the time the purchase price is paid by the grain
12 handler to the producer. The amount of the assessment shall
13 be calculated by multiplying the assessment rate specified
14 in section 6, subsection 1, of this Act by the contract price
15 of the grain.

16 3. The grain handler shall issue a receipt to the producer
17 for the amount collected as an assessment. The receipt shall
18 be in a form specified by the trustee.

19 4. A grain handler shall report to the trustee not later
20 than the tenth ordinary business day following the end of
21 each calendar quarter. The report shall be in writing on
22 forms provided by the trustee, and shall contain such
23 information as the trustee requires. The report shall be
24 accompanied by a cashier's check or certified check for the
25 sum of assessments collected during the quarter. The check
26 shall be drawn on a bank doing business in this state and
27 shall be payable to the Iowa grain producer insurance fund.

28 A penalty shall apply to each late payment equal to five
29 percent of the amount due for each month or portion of a month
30 during which the payment is delinquent.

31 5. A grain dealer is the custodian of assessments delivered
32 to the grain dealer by grain producers, and any improper
33 handling of these funds subjects the grain producer to
34 prosecution for theft.

35 6. Failure to collect or remit assessments as required

1 shall be grounds for revocation of the grain handler's
2 warehouse license and grain dealer's license.

3 Sec. 8. NEW SECTION. INSURANCE PROVISIONS.

4 1. A producer who incurs a loss in connection with the
5 storage of grain with or the sale of grain to a grain handler
6 shall have a claim against the insurance fund, subject to
7 the conditions and limitations contained in this section.

8 2. A loss is not compensable unless the loss is caused
9 by one of the following:

10 a. Default of a grain handler with respect to a contract
11 to store grain. The amount of the loss shall be determined
12 according to the full market value of the grain as of the
13 date of the loss, as closely as that date reasonably can be
14 determined.

15 b. Default of a grain handler in paying for purchased
16 grain. The amount of the loss shall be the unpaid balance
17 of the contract price.

18 3. A loss is not compensable if it arose out of a
19 transaction with an unlicensed person or with a person whose
20 license was under suspension at the time the transaction took
21 place.

22 4. Compensation shall not be paid by the insurance fund
23 unless the following conditions have been satisfied:

24 a. The claimant shall file such evidence of the loss and
25 the claim as may be required by the trustee. The claimant
26 has the burden of proving the loss and the amount of the loss.

27 b. The claimant shall execute such documents as may be
28 required by the trustee to assign to the insurance fund and
29 to the extent of the amount of compensation paid by the
30 insurance fund:

31 (1) All rights which the claimant may have with respect
32 to proceeds from bonds, insurance policies, or judgments or
33 settlements in bankruptcy proceedings or other actions payable
34 as a result of the loss incurred by the claimant.

35 (2) All rights which the claimant may have against any

1 person who is or may be directly or indirectly liable to the
2 claimant for all or any part of the loss for which the claim
3 against the insurance fund is made.

4 5. Subject to the limitation contained in subsection 6,
5 a claimant shall be entitled to compensation from the insurance
6 fund in an amount equal to eighty percent of the compensable
7 loss.

8 6. Losses that occur during a fiscal year shall be
9 compensable only to the extent of the net assets of the
10 insurance fund as they exist at the close of the fiscal year.
11 If the total amount of the losses that occur during a fiscal
12 year exceed the net assets of the insurance fund as they exist
13 at the close of the fiscal year, the right of each claimant
14 as against the insurance fund shall be reduced on a pro-rata
15 basis. Payment to the claimant of the amount thus determined
16 discharges all liability of the insurance fund to the claimant
17 with respect to the claim.

18 7. A producer must file a claim for a loss with the
19 trustee, and not later than thirty days following the close
20 of the fiscal year in which the loss occurs. A failure to
21 file a claim within the required time shall terminate all
22 liability of the insurance fund with respect to the loss.

23 Sec. 9. NEW SECTION. DISCLOSURE OF CLAIMS. Information
24 relating to claims filed against the insurance fund is a
25 matter of public record and is subject to examination and
26 copying by the public under chapter 68A.

27 Sec. 10. NEW SECTION. PAYMENT OF CLAIMS.

28 1. Compensation shall be paid from the insurance fund
29 following the close of a fiscal year, and as soon as the total
30 liabilities of the insurance fund for that fiscal year are
31 determined by the trustee.

32 2. Compensation shall be payable only from net assets.
33 "Net assets" means liquid assets of the insurance fund as
34 of the close of the fiscal year, less the reserve for
35 administrative expense required by subsection 3. "Net assets"

1 does not include any unpaid amount due the insurance fund
2 as the result of an assignment of rights by a producer.

3 3. The trustee shall set aside the amount of one hundred
4 thousand dollars out of the assets of the insurance fund as
5 they exist as of the close of the fiscal year. This fund
6 shall be used during the ensuing fiscal year for the payment
7 of the salary and expenses of the trustee and for the payment
8 of other general administrative expenses of the insurance
9 fund.

10 4. The trustee shall direct the treasurer of state to
11 make payments due to claimants from the insurance fund as
12 soon as the liabilities of the fund are determined.

13 Sec. 11. NEW SECTION. DISCLOSURE OF INSURANCE PROVISIONS.
14 The trustee may authorize grain handlers to post signs upon
15 business premises disclosing that transactions are provided
16 protection by the insurance fund, and that the insurance fund
17 is financed by grain producers. A grain handler shall not
18 make any disclosure except according to rules adopted by the
19 trustee.

20 Sec. 12. NEW SECTION. USE OF FUND EARNINGS.

21 1. The general assembly may appropriate earnings of the
22 insurance fund for use by the warehouse division of the Iowa
23 commerce commission in maintaining a staff of accounting
24 specialists to audit the business of a grain handler conducted
25 under chapters 542 or 543.

26 2. Funds appropriated to the commission under subsection
27 1 shall not be used for any purpose other than that specified
28 in subsection 1.

29 Sec. 13. NEW SECTION. ADMINISTRATIVE ASSISTANCE. The
30 Iowa state commerce commission may assign employees of the
31 commission to assist the trustee in the administration of
32 this chapter. The trustee shall pay to the commission out
33 of the insurance fund such amounts as may be necessary to
34 reimburse the commission for the cost of the salary and
35 expenses of employees assigned to assist the trustee.

1 Sec. 14. NEW SECTION. JUDICIAL REVIEW. Actions of the
2 trustee are subject to judicial review under the provisions
3 of chapter 17A.

4 Sec. 15. TEMPORARY NEW SECTION. REFERENDUM--EFFECTIVE
5 DATE.

6 1. Sections 1 through 14 of this Act shall not take effect
7 unless eligible producers vote in favor of establishing the
8 insurance fund at a referendum held for this purpose.

9 2. The extension service of Iowa state university shall
10 conduct a referendum to be held on the first Tuesday in
11 September following enactment of this Act. Notice shall be
12 given in a newspaper of general circulation in this state
13 at least ten days prior to the date of the referendum. The
14 notice shall specify the date of the election, the period
15 of time for voting, voting places, and such other information
16 as may be necessary.

17 3. Eligible producers shall be entitled to vote at the
18 referendum election in the county in which they reside. An
19 eligible producer is a person who produced five acres or more
20 of grain crops for resale during the calendar year most
21 recently ended prior to the date of the election. Eligible
22 producers shall vote by written ballot. Each eligible producer
23 shall be entitled to one vote, and shall sign an affidavit
24 at the time of voting that certifies his or her eligibility
25 to vote. At the close of the referendum voting period the
26 ballots shall be counted and tabulated. The ballots shall
27 constitute conclusive evidence of the validity of the
28 referendum. The extension service shall notify the trustee
29 of the results of the election within fifteen days after the
30 election date.

31 4. If a majority of the eligible producers that vote in
32 the referendum vote in favor of the establishment of the
33 insurance fund, assessments shall commence October 1 following
34 the election. The trustee shall publish notice of the results
35 of the election, and the commencement date of assessments,

1 if any.

2 Sec. 16. Section 542.1, subsection 3, Code 1981, is amended
3 to read as follows:

4 3. ~~"Grain dealer" shall-mean-any-person-who-is-engaged~~
5 ~~in-the-business-of-buying-grain-for-resale-or-any-merchandiser~~
6 means a person who buys during any calendar month five hundred
7 bushels of grain or more from the producers of the grain for
8 purposes of resale, milling, or processing. However, "grain
9 dealer" shall not be construed to mean a producer of grain
10 buying grain for his or her own use as seed or feed; a person
11 solely engaged in buying ~~or-selling~~ grain future contracts
12 on the board of trade, ~~grain-futures-contracts~~; a person who
13 purchases grain only for sale in a registered feed; a person
14 engaged in the business of selling agricultural seeds regulated
15 by chapter 199; a person buying ~~or-selling~~ grain only as a
16 farm manager; or an executor, administrator, trustee, guardian,
17 or conservator of an estate; or a bargaining agent as defined
18 in section 542A.1.

19 Sec. 17. Section 542.1, subsection 4, Code 1981, is amended
20 by striking the subsection and inserting in lieu thereof the
21 following:

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

26 Sec. 18. Section 542.1, Code 1981, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. "Credit-sale contract" means a contract
29 for the sale of grain pursuant to which the sale price is
30 to be paid at a date subsequent to the delivery of the grain
31 to the buyer, and includes but is not limited to those
32 contracts commonly referred to as deferred payment contracts,
33 deferred pricing contracts, and price-later contracts.

34 Sec. 19. Section 542.3, Code 1981, is amended to read
35 as follows:

1 542.3 LICENSE REQUIRED--FINANCIAL RESPONSIBILITY.

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

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

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

13 b. A class 2 license is required for any grain dealer
14 not holding a class 1 license. A class 2 licensee whose
15 purchases from producers during a fiscal year exceed two hun-
16 dred fifty thousand dollars in value shall apply immediately
17 for a class 1 license. If a class 1 license is denied, the
18 person immediately shall cease doing business as a grain
19 dealer.

20 3. Each An application for a license to engage in business
21 as a grain dealer shall be filed with the commission and shall
22 be in a form prescribed by the commission. The application
23 shall include the name of the applicant, its principal officers
24 if the applicant is a corporation or the active members of
25 a partnership if the applicant is a partnership and the
26 location of the principal office or place of business of the
27 applicant. A separate license shall be required for each
28 location at which the records are normally-kept maintained
29 for transactions of the grain dealer. The application shall
30 also list the number of trucks or tractor trailer units that
31 will be used in the transportation of grain purchased for
32 resale under this chapter. The application shall be
33 accompanied by a complete financial statement of the applicant
34 setting forth the assets, liabilities and the net worth of
35 the applicant. The financial statement must be prepared

1 according to generally accepted accounting principles. Assets
2 shall be shown at original cost less depreciation. Upon a
3 petition written request filed with the commission, the
4 commission or a designated employee may allow asset valuations
5 in accordance with a competent appraisal. ~~Deferred-pricing~~
6 Unpriced contracts shall be shown as a liability and valued
7 at the applicable current market price of grain as of the
8 date the financial statement is prepared.

9 4. In order to receive and retain a class 1 license the
10 ~~applicant must have and maintain a net worth of at least~~
11 ~~twenty-five thousand dollars or provide bond in addition to~~
12 ~~that required by section 542.4 in the amount of two thousand~~
13 ~~dollars for each one thousand dollars or fraction thereof~~
14 ~~of net worth deficiency~~ following conditions must be satisfied:

15 a. The grain dealer shall have and maintain a net worth
16 of at least fifty thousand dollars, or maintain a bond in
17 the amount of two thousand dollars for each one thousand
18 dollars or fraction thereof of net worth deficiency. However,
19 a person shall not be licensed as a class 1 grain dealer if
20 the person has a net worth of less than twenty-five thousand
21 dollars. A bond submitted for purposes of this paragraph
22 shall be in addition to any bond otherwise required under
23 this chapter.

24 b. (1) The grain dealer shall submit, as required by the
25 commission, a financial statement that is accompanied by an
26 unqualified opinion based upon an audit performed by a
27 certified public accountant licensed in this state. However,
28 the commission may accept a qualification in an opinion that
29 is unavoidable by any audit procedure that is permitted under
30 generally accepted accounting principles. An opinion that
31 is qualified because of a limited audit procedure or because
32 the scope of an audit is limited shall not be accepted by
33 the commission.

34 (2) If the grain dealer buys grain solely on a cash basis,
35 the grain dealer may elect at the time of applying for the

1 license to file a bond under section 542.4 in the amount of
2 two hundred fifty thousand dollars in lieu of the bond amount
3 otherwise required by that section, and upon doing so shall
4 be entitled to comply with subsection 5, paragraph c, in lieu
5 of complying with subparagraph (1). As used in this
6 subparagraph, "cash basis" means a sale transaction other
7 than pursuant to a credit-sale contract.

8 c. The grain dealer shall have and maintain current assets
9 equal to at least ninety percent of current liabilities or
10 provide bond in the amount of two thousand dollars for each
11 one thousand dollars or fraction thereof of current assets
12 lacking to meet this minimum. A bond submitted for purposes
13 of this paragraph shall be in addition to any bond otherwise
14 permitted or required under this chapter.

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

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

25 b. The grain dealer shall submit, as required by the com-
26 mission, a financial statement that is accompanied by the
27 report of a certified public accountant licensed in this state
28 that is based upon a review performed by the certified public
29 accountant.

30 c. The grain dealer shall have and maintain current assets
31 equal to at least ninety percent of current liabilities or
32 provide bond in the amount of two thousand dollars for each
33 one thousand dollars or fraction thereof of current assets
34 lacking to meet this minimum. A bond submitted for purposes
35 of this paragraph shall be in addition to any bond otherwise

1 permitted or required under this chapter.

2 6. The commission shall adopt rules relating to the form
3 and time of filing of financial statements. The commission
4 may require additional information or verification with respect
5 to the financial resources of the applicant and the applicant's
6 ability to pay producers for grain purchased from them.

7 Sec. 20. Section 542.4, Code 1981, is amended to read
8 as follows:

9 542.4 BOND REQUIRED. ~~Any person applying~~ An applicant
10 for a license to operate as a grain dealer ~~in accordance with~~
11 ~~this chapter~~ shall, as a condition to the granting of the
12 license, file with the commission a bond payable to the state
13 of Iowa with a corporate surety approved by the commission
14 ~~in a penal sum of twenty-five thousand dollars per license~~
15 conditioned that the applicant will pay the purchase price
16 of any grain to the ~~seller, and that the grain dealer owns~~
17 ~~or controls, free of liens, any grain which he or she offers~~
18 ~~for sale~~ producer; provided that the aggregate liability of
19 the surety to such persons shall in no event exceed the sum
20 of such bond. The bond for each class 1 license shall be
21 in the penal sum of fifty thousand dollars. The bond for
22 each class 2 license shall be in the penal sum of twenty-five
23 thousand dollars. One bond, cumulative as to minimum
24 requirements, shall be required where a person has ~~multiple~~
25 ~~licenses~~ more than one license, but in no event shall the
26 total amount of bond required by this section exceed ~~one~~
27 ~~hundred thousand dollars~~ three hundred thousand dollars for
28 a class 1 licensee, or one hundred fifty thousand dollars
29 for a class 2 licensee. No bond shall be canceled by a surety
30 before at least sixty days' notice by certified mail to the
31 commission and the grain dealer. The liability of the surety
32 shall cover ~~all purchases and transactions~~ made by the grain
33 dealer during the time the bond is in force. A grain dealer's
34 bond filed with this commission shall be in continuous force
35 until canceled by the surety. The liability of the surety

1 on any bond required by the provisions of this chapter shall
2 not accumulate for each successive license period during which
3 the bond is in force.

4 Sec. 21. Section 542.5, Code 1981, is amended to read
5 as follows:

6 542.5 LICENSE. Upon the filing of the application and
7 compliance with the terms and conditions of this chapter and
8 rules of the commission, the commission shall issue a license
9 to the applicant. The license shall terminate on the thirtieth
10 of June of each year. A grain dealer's license may be renewed
11 annually by the filing of a renewal fee, ~~a current financial~~
12 ~~statement~~ and a renewal application on a form prescribed by
13 the commission. An application for renewal shall be received
14 by the commission before the thirtieth of June. A grain
15 dealer license which has terminated may be reinstated by the
16 commission upon receipt of a proper renewal application, a
17 ~~current financial statement~~, the renewal fee, and penalty
18 fee in the amount of ~~ten~~ fifty dollars from the grain dealer,
19 provided that such materials are filed within thirty days
20 from the date of termination of the grain dealer license.
21 The commission may cancel a license upon request of the
22 licensee unless a complaint or information is filed against
23 the licensee alleging a violation of a provision of this
24 chapter.

25 If an applicant has had a license under chapter 542, 542A,
26 or 543 revoked for cause within the past three years, or has
27 been convicted of a felony involving violations of chapter
28 542, 542A, or 543, or is owned or controlled by a person who
29 has had a license so revoked or who has been so convicted,
30 the commission may deny a license to the applicant.

31 Sec. 22. Section 542.6, Code 1981, is amended to read
32 as follows:

33 542.6 FEES. The commission shall collect ~~fees as follows~~
34 the following fees, for deposit in the general fund:

35 1. For the issuance or renewal of a license, twenty-five

1 ~~dollars-per-year-or-fraction-of-a-year~~ one hundred seventy
2 dollars per year for a class 1 license, and eighty-five dollars
3 per year for a class 2 license. The commission shall prorate
4 the annual fee on a monthly basis for licenses issued for
5 less than a full year.

6 2. ~~For-renewal-of-license,-twenty-five-dollars-per-year-~~
7 For each inspection of a class 1 grain dealer, one hundred
8 thirty dollars, and for each inspection of a class 2 grain
9 dealer, sixty-five dollars.

10 3. An annual registration fee ~~-to-be-determined-by-the~~
11 ~~commission,~~ of not less than five dollars nor more than ten
12 fifteen dollars for each vehicle used by the license holder
13 in the transporting of grain purchased under this chapter.

14 4. A fee of ~~one-dollar-will-be-charged~~ ten dollars for
15 issuance of each duplicate replacement identification plate
16 to be used on any vehicle.

17 ~~5.--All-fees-collected-by-the-commission-under-this-chapter~~
18 ~~shall-be-deposited-in-the-general-fund-of-the-state.~~

19 Sec. 23. Section 542.7, Code 1981, is amended to read
20 as follows:

21 542.7 POSTING OF LICENSE AND REGISTRATION. The grain
22 dealer's license shall be posted in a conspicuous place
23 location in the place of business. Each vehicle used by a
24 license holder shall be registered with the commission and
25 equipped with a special deal-or-other-registration
26 identification plate as prescribed by the commission so that
27 ~~the deal~~ plate will be readily visible. A grain dealer's
28 license is not transferable. The ~~registration~~ identification
29 plate shall not be transferred from one vehicle to another,
30 except in case of destruction or other disposition of the
31 vehicle previously bearing the identification. All transfers
32 must first be approved by the commission. If a ~~registration~~
33 an identification plate for a vehicle becomes defaced or
34 destroyed, ~~a-duplicate-shall-be-obtained~~ the licensee shall
35 request a replacement from the commission, which shall be

1 issued upon request-and payment of the fee.

2 Sec. 24. Section 542.8, Code 1981, is amended to read
3 as follows:

4 542.8 PAYMENT. A person licensed as a grain dealer shall
5 pay the purchase price to the owner or his or her agent for
6 grain upon delivery or demand of the owner or agent, but not
7 later than thirty days after delivery by the owner or agent
8 unless in accordance with the terms of a ~~duly-executed-deferred~~
9 ~~payment-or-deferred-pricing-contract~~ credit-sale contract
10 that satisfies the requirements of this chapter. ~~The-contract~~
11 ~~in-addition-to-such-other-information-as-may-be-required-shall~~
12 ~~contain-the-following:~~

13 1.--~~The-seller's-name-and-address.~~

14 2.--~~The-conditions-of-delivery.~~

15 3.--~~The-amount-and-kind-of-grain-delivered.~~

16 4.--~~The-price-per-bushel-or-basis-of-value.~~

17 5.--~~The-date-payment-is-to-be-made.~~

18 ~~The-contract-must-be-numbered-and-signed-by-both-parties~~
19 ~~and-executed-in-duplicate.--One-copy-shall-be-retained-by~~
20 ~~the-grain-dealer-and-one-copy-shall-be-delivered-to-the-seller.~~
21 ~~Upon-revocation, termination, or cancellation of a grain~~
22 ~~dealer license, the payment date for all deferred payment~~
23 ~~or deferred pricing contracts shall be advanced to a date~~
24 ~~not later than thirty days after the effective date of such~~
25 ~~revocation, termination or cancellation and the purchase price~~
26 ~~for all unpriiced grain shall be determined as of the effective~~
27 ~~dates of revocation, termination or cancellation in accordance~~
28 ~~with all other provisions of the contract.--However, if the~~
29 ~~business of the grain dealer is sold to another licensed grain~~
30 ~~dealer, deferred payment or deferred pricing contracts may~~
31 ~~be assigned to the purchaser of the business.~~ As used in
32 this section, delivery "delivery" means the transfer of title
33 to and possession of grain by the seller to the grain dealer
34 or to another person in accordance with the agreement of the
35 seller and the grain dealer.--~~As-used-in-this-section, payment;~~

1 and "payment" means the actual payment or tender of payment
2 by the grain dealer to the seller of the agreed purchase
3 price, or in the case of disputes as to sales of grain, the
4 undisputed portion of the purchase price without reduction
5 for any separate claim of the grain dealer against the seller.

6 Sec. 25. Section 542.9, Code 1981, is amended to read
7 as follows:

8 542.9 INSPECTION OF PREMISES, BOOKS AND RECORDS. The
9 commission may inspect the premises used by any grain dealer
10 in the conduct of his or her business at any time. The books,
11 accounts, records and papers of every such grain dealer which
12 pertain to grain purchases shall be subject to inspection
13 by the commission during ordinary business hours. The
14 transporter of grain in transit shall have ~~in-his-or-her~~
15 ~~possession~~ bills of lading or other documents covering such
16 ~~the grain in-transit-and-such-documents-shall-be-available~~
17 ~~for-inspection-by-the-commission-upon-request~~ in his or her
18 possession, and shall present them to any law enforcement
19 officer or to a person designated as an enforcement officer
20 under section 542.13 on demand. Any A grain dealer licensed
21 in this state who does not have a place of business within
22 the state shall, upon the request of the ~~commission-shall~~
23 director of the warehouse division, make available and furnish
24 to the commission at any reasonable time and place the
25 commission may set all ~~such~~ books, accounts, records and
26 papers ~~of~~ relating to grain transactions within this state.
27 Where there is good cause to believe that a person is engaged
28 without a license in the business of a grain dealer in this
29 state, the commission may inspect the books, papers, and
30 records of ~~such~~ the person which pertain to grain purchases.

31 Sec. 26. Section 542.11, Code 1981, is amended to read
32 as follows:

33 542.11 ~~PENALTIES--MISDEMEANOR~~ INJUNCTIONS. Any-person
34 ~~who-engages-in-business-as-a-grain-dealer-without-obtaining~~
35 ~~a-license-or-any-person-in-violation-of-any-other-provision~~

1 of this chapter, or any grain dealer who refuses to permit
2 inspection of his or her premises, books, accounts or records
3 as provided in this chapter, shall be guilty of a simple mis-
4 demeanor. Each day that any violation continues shall
5 constitute a separate offense. Any person violating the
6 provisions of this chapter may be restrained by an injunction.

7 1. A person who knowingly submits false information to
8 or knowingly withholds information from the commission or
9 any of its employees when required to be submitted or main-
10 tained under this chapter, commits a fraudulent practice.

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

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

24 4. A violation of this chapter, or a violation of chap-
25 ter 714 or 715 involving the business of a grain dealer, may
26 be restrained by an injunction in an action brought by the
27 commerce commission.

28 Sec. 27. Chapter 542, Code 1981, is amended by adding
29 the following new section:

30 NEW SECTION. CREDIT-SALE CONTRACTS.

31 1. A grain dealer shall not purchase grain by a credit-
32 sale contract except as provided in this section.

33 2. A grain dealer shall give written notice to the
34 commission prior to engaging in the purchase of grain by
35 credit-sale contracts. Notice shall be on forms provided

1 by the commission. The notice shall contain information
2 required by the commission.

3 3. All credit-sale contract forms in the possession of
4 a grain dealer shall be permanently and consecutively numbered
5 at the time of printing of the forms. A grain dealer shall
6 maintain an accurate record of all credit-sale contract forms
7 and numbers obtained by that dealer. The record shall include
8 the disposition of each numbered form, whether by execution,
9 destruction, or otherwise.

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

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

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

25 6. Title to all grain sold by a credit-sale contract is
26 in the purchasing dealer as of the time the contract is
27 executed, unless the contract provides otherwise. The contract
28 must be signed by both parties and executed in duplicate.
29 One copy shall be retained by the grain dealer and one copy
30 shall be delivered to the seller. Upon revocation,
31 termination, or cancellation of a grain dealer license, the
32 payment date for all credit-sale contracts shall be advanced
33 to a date not later than thirty days after the effective date
34 of the revocation, termination, or cancellation, and the
35 purchase price for all unpriced grain shall be determined

1 as of the effective date of revocation, termination, or
2 cancellation in accordance with all other provisions of the
3 contract. However, if the business of the grain dealer is
4 sold to another licensed grain dealer, credit-sale contracts
5 may be assigned to the purchaser of the business.

6 Sec. 28. Chapter 542, Code 1981, is amended by adding
7 the following new section:

8 NEW SECTION. CONFIDENTIALITY OF RECORDS. Notwithstanding
9 chapter 68A, all financial statements of grain dealers under
10 this chapter shall be kept confidential by the commission
11 and its agents and employees and are not subject to disclosure
12 except as follows:

- 13 1. Upon waiver by the licensee.
- 14 2. In actions or administrative proceedings commenced
15 under this chapter or chapter 543.
- 16 3. When required by subpoena or court order.
- 17 4. Disclosure to law enforcement agencies in regard to
18 the detection and prosecution of public offenses.
- 19 5. When released to a bonding company approved by the
20 commission, or released to the United States department of
21 agriculture or any of its divisions.

22 Sec. 29. Chapter 542, Code 1981, is amended by adding
23 the following new section:

24 NEW SECTION. STANDARDIZATION OF RECORDS AND DOCUMENTS.

- 25 1. The commission may adopt rules specifying the form
26 and content of scale tickets, and credit-sale contracts.
27 The commission may prescribe a uniform numbering system to
28 be used in this state for the purpose of identifying scale
29 tickets and contracts executed or issued by the respective
30 grain dealers. Rules establishing this uniform numbering
31 system may require registration with and approval by the
32 commission of all numbers to be used by the respective
33 licensees, and may include other requirements as necessary
34 to assure the security of the uniform numbering system and
35 the enforcement of this chapter.

1 2. A licensed grain dealer shall keep complete and accurate
2 records of all grain transactions. Records for the previous
3 six years shall be made available for inspection by the
4 commission.

5 Sec. 30. Chapter 542, Code 1981, is amended by adding
6 the following new section:

7 NEW SECTION. BONDED GRAIN SELLERS.

8 1. A person may apply to the commission for a license
9 to operate as a bonded grain seller. The application shall
10 be on a form prescribed by the commission.

11 2. As a condition of the granting of a license under this
12 section, the applicant shall file with the commission a bond
13 payable to the state of Iowa with a corporate surety approved
14 by the commission in a penal sum of twenty-five thousand
15 dollars per license, conditioned that the grain seller owns
16 or controls, free of liens, any grain offered for sale.
17 Cancellation of bonds by a surety under this section shall
18 meet the requirements of section 542.4. The liability of
19 a surety on any bond under this section shall not accumulate
20 for each successive license period during which the bond is
21 in force.

22 3. The fee for a bonded grain seller's license shall be
23 fifty dollars per year. All licenses shall terminate on the
24 thirtieth of June of each year. There shall be no financial
25 or net worth requirements for bonded grain sellers. License
26 fees for new licenses may be prorated by the commission on
27 a monthly basis.

28 4. This section does not require a person to be licensed
29 to sell grain.

30 Sec. 31. Chapter 542, Code 1981, is amended by adding
31 the following new section:

32 NEW SECTION. COOPERATIVE AGREEMENTS.

33 1. Notwithstanding the other provisions of this chapter,
34 the commission may enter into cooperative agreements with
35 other states for the purpose of making available to those

1 states the information acquired under the bonding, licensing,
2 and examination procedures of this chapter.

3 2. If a cooperative agreement is in effect under this
4 section, the bonding requirements of this chapter may be
5 satisfied by:

6 a. Filing with the commission evidence of a bond on file
7 with a state with which Iowa has a cooperative agreement as
8 provided for by this section.

9 b. Such bond shall be copayable to the state of Iowa for
10 the benefit of sellers of grain under chapter 542 in Iowa.

11 c. The bond shall be in an amount at least equal to the
12 amounts required by this chapter; provided, however, that
13 any bond required under this chapter for any financial
14 deficiency shall be in addition to the bond posted in any
15 other state.

16 Any bond required by this chapter may be made copayable
17 to any state with whom this state has entered into contracts
18 or agreements as authorized by this section, for the benefit
19 of sellers of grain in that state.

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

22 NEW SECTION. SHRINKAGE ADJUSTMENTS--DISCLOSURES--PENALTIES.

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

1 misdemeanor.

2 2. A person who, in connection with the receipt of grain
3 for storage, processing or sale, adjusts the quantity of the
4 grain received to compensate for losses to be incurred during
5 the handling, processing, or storage of the grain shall post
6 on the business premises in a conspicuous place notice of
7 the rate of adjustment to be made for this shrinkage. Failure
8 to make the required disclosure is a simple misdemeanor.

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

21 Sec. 33. Section 543.1, Code 1981, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. "Credit-sale contract" means a contract
24 for the sale of grain pursuant to which the sale price is
25 to be paid at a date subsequent to the delivery of the grain
26 to the buyer, and includes but is not limited to those
27 contracts commonly referred to as deferred-payment contracts,
28 deferred-pricing contracts, and price-later contracts.

29 Sec. 34. Section 543.2, Code 1981, is amended to read
30 as follows:

31 543.2 DUTIES AND POWERS OF THE COMMISSION. The commission
32 ~~is authorized to~~ may exercise general supervision over the
33 storage, warehousing, classifying according to grade or
34 otherwise, weighing, and certification of agricultural
35 products. The commission may inspect or cause to be inspected

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

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

10 Sec. 35. Section 543.5, Code 1981, is amended by adding
11 the following new unnumbered paragraph:

12 NEW UNNUMBERED PARAGRAPH. The commission may adopt rules
13 specifying the form and content of scale tickets, warehouse
14 receipts, settlement sheets, daily position records, shipping
15 ledgers, and other documents used by licensed warehouses.
16 The commission may prescribe a uniform numbering system to
17 be used in this state for the purpose of identifying scale
18 tickets, warehouse receipts, and other documents executed
19 or issued by the respective licensed warehouses. Rules
20 establishing this uniform numbering system may require
21 registration with and approval by the commission of all numbers
22 to be used by the respective licensees, and may include other
23 requirements as necessary to assure the security of the uniform
24 numbering system and the enforcement of this chapter.

25 Sec. 36. Section 543.6, Code 1981, is amended to read
26 as follows:

27 543.6 ISSUANCE OF LICENSE AND FINANCIAL RESPONSIBILITY.

28 1. The commission is authorized, upon application to it,
29 to issue to any warehouseman or to any person about to become
30 a warehouseman a license or licenses for the operation of
31 a warehouse or warehouses in accordance with the provisions
32 of this chapter and such rules as may be made by the commission
33 under the authority of section 543.5. ~~A-single-license-may~~
34 ~~be-issued-for-the-operation-of-two-or-more-warehouses-located~~
35 ~~in-the-same-city-and-operated-by-the-same-warehouseman.~~ A

1 single license to operate two or more warehouses located
2 within a twenty-five mile radius of a central office may be
3 issued,--but-a-separate-fee-shall-be-charged-for-each-station.

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

6 a. A class 1 license is required if the storage capacity
7 of a warehouse is more than one hundred thousand bushels.

8 b. A class 2 license is required for a warehouse that
9 is not required to have a class 1 license.

10 3. An application for a warehouse license shall be
11 accompanied by a complete financial statement of the applicant
12 setting forth the assets, liabilities and net worth of the
13 applicant. The financial statement must be prepared according
14 to normally accepted accounting principles. Assets shall
15 be shown at original cost less depreciation. Upon petition
16 being-filed-with-the-commission written request, the commission
17 or a designated employee may allow asset valuations in
18 accordance with a competent appraisal. Deferred-pricing
19 Unpriced contracts shall be shown as a liability and valued
20 at the applicable current market price of grain as of the
21 date the financial statement is prepared.

22 4. In order to receive and retain a class 1 license, the
23 applicant-must-have-and-maintain-a-net-worth-of-at-least
24 twenty-five-thousand-dollars-or-provide-bond-in-addition-to
25 that-required-by-section-543-12-in-the-amount-of-two-thousand
26 dollars-for-each-one-thousand-dollars-or-fraction-thereof
27 of-net-worth-deficiency following conditions must be satisfied:

28 a. The warehouseman shall have and maintain a net worth
29 of at least fifty thousand dollars, or maintain a bond in
30 the amount of two thousand dollars for each one thousand
31 dollars or fraction thereof of net worth deficiency. However,
32 a person shall not be licensed as a class 1 warehouseman if
33 the person has a net worth of less than twenty-five thousand
34 dollars. A bond submitted for purposes of this paragraph
35 shall be in addition to any bond otherwise required under

1 this chapter.

2 b. The warehouseman shall submit, as required by the com-
3 mission, a financial statement that is accompanied by an un-
4 qualified opinion based upon an audit performed by a certified
5 public accountant licensed in this state. However, the commis-
6 sion may accept a qualification in an opinion that is unavoid-
7 able by any audit procedure that is permitted under generally
8 accepted accounting principles. An opinion that is qualified
9 because of a limited audit procedure or because the scope
10 of an audit is limited shall not be accepted by the com-
11 mission.

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

14 a. The warehouseman shall have and maintain a net worth
15 of at least twenty-five thousand dollars, or maintain a bond
16 in the amount of two thousand dollars for each one thousand
17 dollars or fraction thereof of net worth deficiency. However,
18 a person shall not be licensed as a class 2 warehouseman if
19 the person has a net worth of less than ten thousand dollars.
20 A bond submitted for purposes of this paragraph shall be in
21 addition to any bond otherwise required under this chapter.

22 b. The warehouseman shall submit, as required by the com-
23 mission, a financial statement that is accompanied by the
24 report of a certified public accountant licensed in this state
25 that is based upon a review performed by the certified public
26 accountant.

27 6. The commission may adopt rules governing the timing
28 and form of financial statements to be submitted to it. The
29 commission may require additional information or verification
30 with respect to the financial resources of the applicant or
31 licensee and the applicant's or licensee's ability to maintain
32 the quantity and quality of stored grain.

33 7. If an applicant has had a license under chapter 542,
34 542A, or 543 revoked for cause within the past three years,
35 or has been convicted of a felony involving violations of

1 chapter 542, 542A, or 543, or is owned or controlled by a
2 person who has had a license so revoked or who has been so
3 convicted, the commission may deny a license to the applicant.

4 Sec. 37. Section 543.8, Code 1981, is amended to read
5 as follows:

6 543.8 LICENSE TO SPECIFY TYPE AND QUANTITY OF PRODUCTS
7 WHICH MAY BE STORED. The commission shall determine with
8 respect to each application for a license whether the warehouse
9 or warehouses described in the application is or are suitable
10 for the proper and safe storage of the particular agricultural
11 product or products intended to be stored therein in the
12 quantities specified in the application, provided that no
13 warehouse shall be found to be suitable and safe for the
14 storage of bulk grain unless such warehouse is equipped with
15 a fixed or portable mechanical device of a type in common
16 use as an adjunct to the movement of bulk grain. Each license
17 issued for the operation of a single warehouse shall specify
18 the type or types and quantities of agricultural products
19 which may be stored in such warehouse. Each license issued
20 to a warehouseman for the operation of two or more warehouses
21 ~~in-the-same-city~~ shall specify with respect to each warehouse
22 the type or types and quantities of agricultural product which
23 may be stored in such warehouse. It shall be unlawful for
24 any licensed warehouseman to accept for storage or to store
25 in any licensed warehouse any agricultural product or products
26 other than the type or types and quantities specified in the
27 license for the operation of such warehouse.

28 Sec. 38. Section 543.11, unnumbered paragraph 1, Code
29 1981, is amended to read as follows:

30 Whenever the commission shall determine that a bond filed
31 under the provisions of ~~section-543-12~~ this chapter and
32 approved by the commission, is, or has become, insufficient
33 to secure the faithful performance of the obligations of the
34 licensed warehouseman, or whenever the commission shall
35 determine that insurance is not fully provided as required

1 under section 543.15, it may require the licensed warehouseman
2 to provide additional bond or bonds or additional evidence
3 of insurance coverage so that the bond and insurance shall
4 conform with the requirements of ~~sections-543-127-543-137~~
5 ~~and-543-15~~ this chapter. If ~~such~~ additional insurance is
6 not provided within five days after receipt by the licensee
7 of notice by certified mail the license of the warehouseman
8 concerned shall be automatically suspended. If ~~such~~ additional
9 insurance is not filed within another ~~twenty-five~~ ten days,
10 the warehouse license shall be automatically revoked. If
11 additional bond is not provided within ~~thirty~~ a period as
12 set by the commission, but not to exceed ten days after
13 receiving notice, ~~by-certified-mail~~ the warehouse license
14 shall be suspended. If ~~such~~ additional bond is not filed
15 within ~~sixty~~ ten days following suspension, the warehouse
16 license shall be automatically revoked. When a license is
17 so revoked, the commission shall notify each holder of an
18 outstanding warehouse receipt and all known persons who have
19 grain retained in open storage of such revocation. The
20 commission shall further notify each receipt holder and all
21 known persons who have grain retained in open storage that
22 the grain must be removed from the warehouse not later than
23 the thirtieth day following the ~~initial~~ revocation as herein
24 set forth. Such notice shall be by ordinary mail sent to
25 the last known address of each person having grain in storage
26 as provided in this section.

27 Sec. 39. Section 543.17, Code 1981, is amended to read
28 as follows:

29 543.17 RECEIVING BULK GRAIN AT LICENSED AND UNLICENSED
30 WAREHOUSES.

31 1. Any grain which has been received at any licensed
32 warehouse for which the actual sale price is not fixed and
33 proper documentation made or payment made shall be construed
34 to be grain held for storage within the meaning of this
35 chapter. Grain may be held in open storage or placed on

1 warehouse receipt. ~~Actual-payment-shall-be-made-on-all-priced~~
 2 ~~grain-within-thirty-days-unless-a-deferred-payment-or-deferred~~
 3 ~~pricing-contract-has-been-executed-~~ Warehouse receipts shall
 4 be issued for all grain held in open storage, within six
 5 months of delivery to the warehouse, unless the depositor
 6 has signed a statement that the depositor does not desire
 7 a warehouse receipt. The warehouseman's tariff shall apply
 8 for any grain that is retained in open storage or under
 9 warehouse receipt.

10 2. Bulk grain deposited with a licensed warehouseman for
 11 processing, cleaning, drying, shipping for the account of
 12 the depositor or any other purpose shall be removed within
 13 thirty days or such grain shall be determined as stored grain
 14 and the warehouseman's tariff charges shall apply.

15 3. Grain received on a scale ticket which fails to have
 16 the price fixed and properly documented on the records of
 17 the warehouseman shall be construed to be in open storage.

18 4. All grain whether open storage or having been placed
 19 on warehouse receipt shall be covered by the warehouseman's
 20 bond as required under the provisions of this chapter.

21 ~~2.--Notwithstanding-any-provisions-of-this-section,-a~~
 22 ~~written-agreement-may-be-made-between-the-seller-and-the~~
 23 ~~licensed-warehouseman-for-any-bulk-grain-delivered-to-or~~
 24 ~~stored-at-a-licensed-warehouse-that-payment-or-pricing-and~~
 25 ~~payment-will-be-deferred-to-a-later-date.--Such-agreement~~
 26 ~~shall-contain-a-statement-informing-the-seller-that-the~~
 27 ~~warehouseman-shall-not-be-required-to-carry-insurance-or-bond~~
 28 ~~on-such-grain-for-the-benefit-of-the-seller-and-that-the~~
 29 ~~payment-for-such-grain-becomes-a-common-claim-against-the~~
 30 ~~warehouseman-~~

31 The agreement in addition to such other information as
 32 may be required shall contain the following:

- 33 a.--The seller's or depositor's name and address.
 34 b.--The conditions of delivery.
 35 c.--The amount and kind of grain delivered.

1 ~~d--The price per bushel or basis of value.~~
2 ~~e--The date payment is to be made.~~
3 ~~Such agreement must be numbered and signed by both parties~~
4 ~~and executed in duplicate.--One copy shall be retained by~~
5 ~~the warehouseman and one copy shall be delivered to the seller.~~
6 ~~Grain received or purchased in storage under a deferred~~
7 ~~payment or deferred pricing contract under the provisions~~
8 ~~of this section shall be deemed to be warehouse owned grain.~~

9 5. Any grain which has been received at any unlicensed
10 warehouse and for which the actual sale price has not been
11 fixed and payment made within thirty days from receipt of
12 the grain, unless covered by ~~deferred payment or deferred~~
13 ~~pricing~~ a credit sale contract, shall be construed to be
14 unlawful storage within the meaning of this chapter. Bulk
15 grain received at any unlicensed warehouse for any other
16 purpose must either be returned to the depositor or disposed
17 of by order of the depositor within thirty days from date
18 of actual deposit of the bulk grain.

19 6. If the depositor of bulk grain in an unlicensed
20 warehouse fails to sell the grain or orders other disposition
21 of the grain, the warehouseman may purchase the grain, if
22 otherwise allowed by law, on the thirtieth day after deposit
23 at not less than the local market price at the close of
24 business on the thirtieth day or return the grain to the
25 depositor by the thirtieth day.

26 3- 7. Every licensed warehouseman shall, on or before
27 July 1 of each year, send a statement for each holder of a
28 warehouse receipt covering grain held for more than one year
29 at that warehouse to his or her last known address. The
30 statement shall show the amount of all grain held pursuant
31 to warehouse receipt for such warehouse receipt holder and
32 the amount of any storage charges held by the licensed
33 warehouseman against that grain. However, a licensed
34 warehouseman need not prepare this annual statement for a
35 holder of a warehouse receipt, if the licensed warehouseman

1 prepares such statements monthly, quarterly or for any other
2 period more frequent than annually. Failure to prepare a
3 statement required by this subsection ~~shall-be-punishable~~
4 ~~by-a-civil-fine-not-to-exceed-one-hundred-dollars~~ is a simple
5 misdemeanor. Violation of this section shall not constitute
6 grounds for suspension, revocation, or modification of the
7 license of anyone licensed under this chapter.

8 Sec. 40. Section 543.18, Code 1981, is amended by adding
9 the following new unnumbered paragraph:

10 NEW UNNUMBERED PARAGRAPH. The original copy of every ware-
11 house receipt shall be imprinted with the signature of the
12 secretary of the commerce commission prior to issuance.

13 Sec. 41. Section 543.33, Code 1981, is amended by striking
14 the section and inserting in lieu thereof the following:

15 543.33 FEES. The commission shall charge the following
16 fees:

17 1. For the issuance or renewal of a license, a fee deter-
18 mined as follows:

19 a. With respect to a warehouse license for the storage
20 of bulk grain:

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

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

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

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

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

32 (2) For intended storage of products of a value greater
33 than one hundred thousand dollars but not greater than three
34 hundred thousand dollars, a fee of fifty dollars.

35 (3) For intended storage of products of a value in excess

1 of three hundred thousand dollars, a fee of one hundred
2 dollars.

3 2. For each inspection of a warehouse or station for the
4 purpose of licensing, a fee of twenty-five dollars.

5 3. For each amendment of a license, a fee of ten dol-
6 lars.

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

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

11 All fees received by the commission shall be paid to the
12 treasurer of state for deposit in the state general fund.
13 License fees for new licenses shall be prorated by the commis-
14 sion on a monthly basis.

15 Sec. 42. Section 543.36, Code 1981, is amended to read
16 as follows:

17 543.36 ~~PENALTIES--MISDEMEANOR~~ INJUNCTION. Every person
18 ~~who violates or fails to comply with any of the provisions~~
19 ~~of this chapter or to comply with any lawfully authorized~~
20 ~~order, direction, demand, or rule or regulation of the~~
21 ~~commission shall be guilty of a simple misdemeanor.~~

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

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

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

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

9 Sec. 43. Section 543.37, Code 1981, is amended to read
10 as follows:

11 543.37 FAILURE TO PAY FEE. Failure to pay the annual
12 fee provided for in section 543.33 on or before ~~the date the~~
13 ~~same shall become due~~ June 30 of the year for which due shall
14 cause a license to terminate. ~~The annual fee shall become~~
15 ~~due on June 30 each year.~~ A warehouse license which has
16 terminated may be reinstated by the commission upon receipt
17 of a proper renewal application, ~~current financial statement,~~
18 the renewal fee, and a penalty fee in the amount of ~~ten~~ twenty-
19 five dollars ~~from the warehouse,~~ if ~~such are~~ filed within
20 thirty days from the date of termination of the warehouse
21 license. The commission may cancel the license upon request
22 of the licensee unless a complaint or information is filed
23 against the licensee alleging a violation of a provision of
24 this chapter.

25 Sec. 44. Chapter 543, Code 1981, is amended by adding
26 the following new section:

27 NEW SECTION. WAREHOUSEMAN'S OBLIGATION. A warehouseman
28 shall maintain at all times sufficient quantity and quality
29 of grain or other agricultural products to cover the ware-
30 houseman's obligation. A warehouseman shall not at any time
31 have less grain or other agricultural products in the ware-
32 house than the obligations to depositors.

33 Sec. 45. Chapter 543, Code 1981, is amended by adding
34 the following new section:

35 NEW SECTION. CONFIDENTIALITY OF RECORDS. Notwithstanding

1 the provisions of chapter 68A, all financial statements of
2 warehousemen under this chapter shall be kept confidential
3 by the commission and its agents and employees and are not
4 subject to disclosure except as follows:

5 1. Upon waiver by the licensee.

6 2. In actions or administrative proceedings commenced
7 under this chapter or chapter 542.

8 3. When required by subpoena or other court orders.

9 4. Disclosure to law enforcement agencies in regards to
10 the detection and prosecution of public offenses.

11 5. Where released to a bonding company approved by the
12 commission or to the United States department of agriculture
13 or any of their divisions.

14 Sec. 46. Chapter 543, Code 1981, is amended by adding
15 the following new section:

16 NEW SECTION. SHRINKAGE ADJUSTMENTS--DISCLOSURES--PENALTIES.

17 1. A person who, in connection with the receipt of corn
18 or soybeans for storage, processing, or sale, adjusts the
19 scale weight of the grain to compensate for the moisture
20 content of the grain shall compute the amount of the adjustment
21 by multiplying the scale weight of the grain by that factor
22 which results in a rate of adjustment of one and eighteen
23 hundredths percent of weight per one percent of moisture
24 content. The use of any rate of weight adjustment for moisture
25 content other than the one prescribed by this subsection is
26 a fraudulent practice. The person shall post on the business
27 premises in a conspicuous place notice of the rate of
28 adjustment for moisture content that is prescribed by this
29 subsection. Failure to make this disclosure is a simple
30 misdemeanor.

31 2. A person who, in connection with the receipt of grain
32 for storage, processing or sale, adjusts the quantity of the
33 grain received to compensate for losses to be incurred during
34 the handling, processing, or storage of the grain shall post
35 on the business premises in a conspicuous place notice of

1 the rate of adjustment to be made for this shrinkage. Failure
2 to make the required disclosure is a simple misdemeanor.

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

15 EXPLANATION

16 This bill relates to the regulation of transactions
17 involving the storage or sale of grain.

18 Sections 1 through 15 provide for an insurance trust fund
19 to be used to compensate grain producers who incur losses
20 as a result of the default of licensed warehouses or grain
21 dealers. The fund would not take effect unless approved by
22 a majority of grain producers voting in a referendum to be
23 held the first Tuesday of September following the effective
24 date of the bill. If approved, the fund would be generated
25 by an assessment of one mill per dollar of value of grain
26 stored or sold. The nominal worth of the fund would be ten
27 million dollars. Claims would be paid after the end of the
28 fiscal year of the insurance fund in the amount of eighty
29 percent of the loss. Assessments would be in effect for one-
30 year periods as necessary to maintain ten million dollars
31 in the fund. The insurance fund would be administered as
32 a trust fund, and by a trustee appointed by the commerce
33 commission. Earnings of the trust fund could be used to pay
34 for additional warehouse inspectors, and the trustee could
35 reimburse the commerce commission for administrative as-

1 sistance provided by employees of the commerce commission.
2 Sections 16 through 32 amend chapter 542 regulating grain
3 dealers to limit the licensure and other provisions of the
4 chapter to persons who buy grain from producers, to regulate
5 grain purchases made by credit sale contracts, to establish
6 two classes of grain dealer licenses and the bond and net
7 worth requirements of each, to require the submission of
8 financial statements accompanied by reports of independent
9 certified public accountants, to increase the fees that are
10 collected from grain dealers, to clarify or coordinate various
11 sections of the chapter, and to establish criminal offenses
12 and the penalties that apply. The amendments also provide
13 that financial statements of grain dealers are confidential
14 records, authorize the commission to require the use of
15 standardized documents, establish a voluntary "bonded grain
16 seller" license, authorize the commission to enter cooperative
17 agreements with regulatory agencies of other states, and
18 regulate the moisture shrinkage factor used by grain dealers
19 and require the posting of the moisture shrinkage factor and
20 any shrinkage factor used to compensate for handling losses.
21 Sections 33 through 46 amend chapter 543 regulating ware-
22 houses to reduce from two to one the number of mandatory
23 annual warehouse inspections, to authorize the commission
24 to require the use of standardized documents, to establish
25 two classes of warehouse licenses and the net worth require-
26 ments of each, to require the submission of financial state-
27 ments accompanied by reports of independent certified public
28 accountants, to reduce the periods of time within which a
29 warehouseman must correct insurance or bond deficiencies,
30 to remove language relating to credit-sale contracts in lieu
31 of new material placed in chapter 542, to require that all
32 warehouse receipts be imprinted with the signature of the
33 secretary of the commerce commission, to increase fees
34 collected from licensees, to establish criminal offenses and
35 the penalties that apply, to establish the warehouse storage

1 obligation, to make financial statements confidential, and
2 to regulate the moisture shrinkage factor and to require the
3 posting of the moisture shrinkage factor and any handling
4 shrinkage factor.

5 The bill would take effect July 1 following enactment,
6 except sections 1 through 15 which would depend upon the
7 outcome of the referendum.

- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

FISCAL NOTE
House File 841
Requested by Representative Pellett
March 27, 1981

In compliance with a written request there is hereby submitted a Fiscal Note for House File 841 pursuant to Joint Rule 16.

House File 841, An Act relating to transactions involving the storage or sale of grain, and providing penalties.

The modifications to Chapters 542 and 543 contained in H.F. 841 are designed to make the warehouse division self-supporting, and also includes two additional inspectors for the division. These fees are not intended to cover any portion of the Commission's administrative expenses.

The provisions of the bill relating to the grain producer's insurance fund impose no direct responsibilities on the Commission. However, Section 13 provides that the Commission "may assign employees of the Commission to assist the trustee." If the trustee requests that the Commission assign employees to handle substantially all of the trustee's duties, and the Commission decides to so assign employees, the resulting workload would be substantial. Since the duties of the trustee are not well-defined, it is difficult to estimate the required manpower needed to complete all the required tasks. However, it is conceivable that an additional attorney, fifteen accountants, and supporting clerical staff would be needed to complete the tasks.

It should also be noted that Section 10, Subsection 3, may limit the total administrative expenses of the trustee, including payments to the Commission under Section 13 to \$100,000. If this is the case, it is conceivable that the Commission would incur expenses for which reimbursement would not be possible.

In the fiscal note, only the certainties (two additional inspectors) were listed as increased expenditures and are included in the Governor's 1982 budget recommendation. The other additional positions that might be required due to the trustee's activities were not included.

Fiscal Impact:

The following annual expenditures represent salaries and support for two additional inspectors. These expenditures are covered by the fees.

<u>1st Yr.</u>	<u>2nd Yr.</u>	<u>3rd Yr.</u>	<u>4th Yr.</u>	<u>5th Yr.</u>
\$71,087	55,790	58,580	61,508	64,584

FILED APRIL 14, 1981

BY GERRY D. RANKIN
Legislative Fiscal Bureau

HOUSE FILE 841

H-3607

- 1 Amend House File 841 as follows:
- 2 1. Page 8, line 31, by striking the words "a majority"
- 3 and inserting in lieu thereof the words "sixty percent".

H-3607 FILED
APRIL 10, 1981

*Placed out of order
5/4/81 (p. 1610)*

BY LAGESCHULTE of Bremer
SCHNEKLOTH of Scott
MULLINS of Kossuth

MILLER of Buchanan
BRANSTAD of Winnebago
RENKEN of Grundy

HOUSE FILE 841

H-3606

- 1 Amend House File 841 as follows:
- 2 1. Page 8, lines 10 and 11, by striking the words
- 3 "in September" and inserting in lieu thereof the words
- 4 "after the first Monday in January".
- 5 2. Page 8, line 33, by striking the word "October"
- 6 and inserting in lieu thereof the word "March".

H-3606 FILED
APRIL 10, 1981

Placed out of order 5/4/81

BY LAGESCHULTE of Bremer
COCHRAN of Webster
BRANSTAD of Winnebago
MULLINS of Kossuth
SCHNEKLOTH of Scott

MILLER of Buchanan
DAVITT of Warren
DANKER of Pottawattamie
RENKEN of Grundy

HOUSE FILE 841

H-3604

- 1 Amend House File 841 as follows:
- 2 1. Page 4, line 33, by striking the word "producer"
- 3 and inserting in lieu thereof the word "handler".
- 4 2. Page 6, lines 21 and 22, by striking the words
- 5 "shall terminate all liability of the insurance fund"
- 6 and inserting in lieu thereof the words "absolves
- 7 the insurance fund of liability".
- 8 3. Page 12, line 4, by striking the words
- 9 "paragraph c" and inserting in lieu thereof the words
- 10 "paragraph b".

H-3604 FILED APRIL 10, 1981

Placed out of order 5/4/81 (p. 1610)

BY BENNETT of Ida

H-3659

- 1 Amend House File 841 as follows:
- 2 1. Page 4, line 28, by striking the word "five" and
- 3 inserting in lieu thereof the word "two".
- 4 2. Page 6, line 6, by striking the word "eighty" and
- 5 inserting in lieu thereof the word "sixty".

H-3659 FILED APRIL 15, 1981 BY LAGESCHULTE of Bremer
Placed out of order 5/4/81 (p. 1610)

H-3660

- 1 Amend House File 841 as follows:
- 2 1. By striking page 1, line 1 through page 9,
- 3 line 1.

BY COOK of Hardin	MILLER of Buchanan
MULLINS of Kossuth	LAGESCHULTE of Bremer
DE GROOT of Lyon	POFFENBERGER of Dallas
BRANSTAD of Winnebago	RENKEN of Grundy
SCHNEKLOTH of Scott	CRABB of Crawford
OXLEY of Linn	SHIMANEK of Jones
MAULSBY of Calhoun	STUELAND of Clinton

H-3660 FILED
 APRIL 15, 1981
Placed out of order 5/4/81

H-3661

- 1 Amend House File 841 as follows:
- 2 1. Page 4, line 24, by striking the words
- 3 "cashier's check or certified".
- 4 2. Page 4, by striking line 26.

H-3661 FILED APRIL 15, 1981 BY SWEARINGEN of Keokuk
Placed out of order 5/4/81

H-3663

- 1 Amend House File 841 as follows:
- 2 1. By striking page 22, line 22 through page 23,
- 3 line 20, and inserting in lieu thereof the following:
- 4 "NEW SECTION. SHRINKAGE ADJUSTMENT DISCLOSURE-
- 5 -PENALTY. A person who, in connection with the receipt
- 6 of grain for storage, processing, or sale, adjusts
- 7 the scale weight of the grain to compensate for
- 8 moisture content or handling loss or both, shall post
- 9 on the business premises in a conspicuous place the
- 10 rate of adjustment to be made for this weight
- 11 reduction. Failure to make this disclosure is a
- 12 simple misdemeanor."
- 13 2. By striking page 35, line 16 through page 36,
- 14 line 14, and inserting in lieu thereof the following:
- 15 "NEW SECTION. SHRINKAGE ADJUSTMENT DISCLOSURE-
- 16 -PENALTY. A person who, in connection with the receipt
- 17 of grain for storage, processing, or sale, adjusts
- 18 the scale weight of the grain to compensate for
- 19 moisture content or handling loss or both, shall post
- 20 on the business premises in a conspicuous place the
- 21 rate of adjustment to be made for this weight
- 22 reduction. Failure to make this disclosure is a
- 23 simple misdemeanor."

H-3663 FILED
 APRIL 15, 1981
Placed out of order 5/4/81

BY COOK of Hardin
 DE GROOT of Lyon

HOUSE FILE 841

II-3655

1 Amend House File 841 as follows:

2 1. Page 8, lines 10 and 11, by striking the words
3 "first Tuesday in September following enactment of
4 this Act" and inserting in lieu thereof the words
5 and figures "January 12, 1982".

6 2. Page 9, by inserting after line 33 the
7 following:

8 "Sec. ____ Section 542.2, Code 1981, is amended
9 to read as follows:

10 542.2 DUTIES AND POWERS OF THE COMMISSION. The
11 commission may exercise general supervision over the
12 business operations of grain dealers. The supervisory
13 and regulatory powers authorized by this chapter shall
14 be the responsibility of the warehouse division of
15 the commission. The commission may ~~shall~~ inspect
16 or cause to be inspected, at least once in every
17 twelve-month period, any grain dealer operating in
18 this state, and may require the filing of reports
19 pertaining to the operation of ~~his~~ the grain dealer's
20 business. The commission shall adopt rules to provide
21 for the efficient administration and regulation of
22 the provisions of this chapter, and may designate
23 an employee of the commission to act for the commission
24 in any details connected with such administration,
25 including the issuance of licenses and approval of
26 grain dealers' bonds in the name of the commission."

27 3. Page 10, by striking lines 5 through 19.

28 4. Page 11, line 9, by striking the word and
29 figure "class 1".

30 5. Page 11, line 19, by striking the word and
31 figure "class 1".

32 6. By striking page 11, line 24 through page 12,
33 line 7.

34 7. Page 12, by striking lines 15 through 24.

35 8. By striking page 12, line 30 through page 13,
36 line 1.

37 9. Page 13, by striking line 14 and inserting
38 in lieu thereof the words "in a penal sum of ~~twenty-~~
39 ~~five~~ fifty thousand dollars per license".

40 10. Page 13, by striking lines 20 through 23 and
41 inserting in lieu thereof the words "of such bond.
42 One bond, cumulative as to minimum".

43 11. Page 13, by striking lines 25 through 29,
44 and inserting in lieu thereof the words "~~licenses~~
45 ~~more than one license but in no event shall the total~~
46 ~~amount of bond exceed one hundred thousand dollars.~~
47 No bond shall be canceled by a surety".

48 12. Page 14, by striking lines 25 through 30.

49 13. Page 15, by striking lines 2 and 3 and
50 inserting in lieu thereof the words "dollars per year."

- 1 The commission shall prorate".
 2 14. Page 15, by striking lines 7 through 9 and
 3 inserting in lieu thereof the following: "For each
 4 inspection of a grain dealer, one hundred thirty
 5 dollars. However, a grain dealer that also is licensed
 6 under chapter 543 as a warehouse shall not be assessed
 7 for more than one inspection fee under this subsection
 8 during any twelve-month period."
 9 15. Page 15, line 12, by inserting after the word
 10 "vehicle" the words "owned or leased by the license
 11 holder and".
 12 16. Page 18, by striking lines 14 through 16 and
 13 inserting in lieu thereof the words "or other documents
 14 required by this chapter commits a serious".
 15 17. Page 19, line 5, by striking the words "at
 16 the time of printing of the forms".
 17 18. Page 19, lines 6 and 7, by striking the words
 18 "forms and numbers obtained" and inserting in lieu
 19 thereof the words "numbers used".
 20 19. Page 20, lines 25 and 26, by striking the
 21 words "form and".
 22 20. Page 21, by striking lines 5 through 29.
 23 21. Page 24, line 4, by striking the word "once"
 24 and inserting in lieu thereof the word "twice".
 25 22. Page 25, line 13, by striking the words "form
 26 and".
 27 23. Page 26, by striking lines 4 through 9.
 28 24. Page 26, line 22, by striking the word and
 29 figure "class 1".
 30 25. Page 26, line 32, by striking the word and
 31 figure "class 1".
 32 26. Page 27, by striking lines 2 through 21.
 33 27. By striking page 27, line 33 through page
 34 28, line 3.
 35 28. Page 29, line 13, by striking the words
 36 "notice, by-certified-mail" and inserting in lieu
 37 thereof the words "notice by certified mail,".
 38 29. Page 29, line 15, by striking the word "ten"
 39 and inserting in lieu thereof the word "thirty".
 40 30. Page 32, lines 1 and 2, by striking the words
 41 "monthly, quarterly or for any other period more
 42 frequent" and inserting in lieu thereof the words
 43 "monthly, quarterly or for any other period more
 44 frequent frequently".
 45 31. Page 33, by inserting after line 4 the
 46 following:
 47 "____. For each inspection of a warehouse, other
 48 than an inspection for the purpose of licensing,
 49 thirty dollars."
 50 32. Page 33, by striking lines 30 through 32 and

- 1 inserting in lieu thereof the words "or other documents
 2 required by this chapter commits".
 3 33. By renumbering sections and subsections and
 4 correcting references as necessary.

HOUSE FILE 841

H-3709

1 Amend House File 841 as follows:

2 1. By striking page 1, line 3 through page 9,
3 line 1, and inserting in lieu thereof the following:

4 "Sec. 2. NEW SECTION. PURPOSE OF THE IOWA GRAIN
5 PRODUCER INSURANCE FUND. The purpose of this chapter
6 is to generate confidence in the grain marketing
7 system in this state through the establishment of
8 a grain producer insurance fund. The general assembly
9 finds that providing for financial security in grain
10 storage and sale transactions is essential to the
11 continued well-being of grain producers and a sound
12 marketing system. The general assembly also finds
13 that the provisions of this chapter serve an essential
14 public purpose by protecting grain producers, by
15 creating confidence in grain warehouses and grain
16 dealers, by assuring the expectations of businesses
17 and industries that contribute to or support the
18 production and marketing of grain, and by stabilizing
19 the economy of this state.

20 Sec. 3. NEW SECTION. DEFINITIONS. As used in
21 this chapter, unless the context otherwise requires:

- 22 1. "Grain" means as defined in section 542.1.
23 2. "Grain handler" means either of the following:
24 a. A grain dealer licensed under chapter 542.
25 b. A warehouse licensed under chapter 543.
26 3. "Insurance fund" means the grain producer
27 insurance fund established under section 4 of this
28 Act.
29 4. "Trustee" means an employee who is qualified
30 to perform the duties of trustee of the Iowa state
31 commerce commission.

32 Sec. 4. NEW SECTION. IOWA GRAIN PRODUCER INSURANCE
33 FUND ESTABLISHED--TRUSTEE.

34 1. There is established a grain producer insurance
35 fund, which shall be a perpetual trust fund to be
36 administered as provided in this chapter for the
37 benefit of the producers of grain who deliver grain
38 to a grain handler in this state for purposes of
39 storage under a warehouse receipt, or cash sale.

40 2. The insurance fund shall consist of income
41 from assessments and subrogation rights under this
42 chapter, plus interest or earnings, less disbursements
43 permitted by this chapter.

44 3. The insurance fund shall be administered by
45 the trustee.

46 4. The trustee shall deliver the assets of the
47 insurance fund to the custody of the treasurer of
48 state, who shall disburse money from the insurance
49 fund only upon the direction of the trustee. The
50 treasurer of state shall invest the money held in

1 the insurance fund, but investments shall be limited
2 to short-term, highly liquid securities. The assets
3 of the insurance fund shall be maintained separate
4 from any other funds in the custody of the treasurer
5 of state.

6 Sec. 5. NEW SECTION. DUTIES OF TRUSTEE.

7 1. The Iowa state commerce commission shall employ
8 the person to serve as trustee of the insurance fund,
9 who may be removed from office as provided in chapter
10 68.

11 2. The trustee shall have exclusive authority
12 to administer this chapter and the insurance fund.

13 Sec. 6. NEW SECTION. ASSESSMENTS.

14 1. There shall be an assessment at the rate of
15 one mill per dollar of value upon all grain that is
16 delivered by a grain producer to a grain handler for
17 storage or that is sold by a grain producer to a grain
18 handler during a fiscal year when the assessment is
19 in effect. Grain shall not be subject to more than
20 one assessment.

21 2. The trustee will declare a period of assessment
22 when the balance in the insurance fund is less than
23 seven and one-half million dollars. The assessment
24 period will continue until the fund reaches ten million
25 dollars.

26 3. The trustee shall cause the declaration
27 specified in subsection 2 to be published in a
28 newspaper of general circulation in this state.
29 Publication shall be at least one week prior to the
30 date upon which the assessment commences.

31 Sec. 7. NEW SECTION. COLLECTION OF ASSESSMENTS-
32 -REMITTANCE--PENALTY.

33 1. A grain handler shall collect the assessment
34 specified in section 6 of this Act for each assessable
35 transaction. An assessable transaction is one that
36 occurs on a day on which the assessment is in effect,
37 as determined under section 6 of this Act. For
38 purposes of this subsection, the date of occurrence
39 of a transaction is as follows:

40 a. A storage transaction occurs on the date grain
41 is delivered by the producer to a warehouse and must
42 be covered by a warehouse receipt.

43 b. A sale transaction occurs on the date of
44 execution of the contract of sale, and is limited
45 to cash sales between producer and grain handler where
46 storage is not involved and scale tickets, not
47 warehouse receipts are involved.

48 2. The time of collection of the assessment that
49 is due on an assessable transaction is as follows:

50 a. With respect to stored grain that is returned

H-3709

Page Three

1 to the producer, the assessment shall be collected
2 from the producer at the time the grain is stored
3 and a warehouse receipt is issued to the producer.

4 b. With respect to grain that is sold to the grain
5 handler, exclusive of grain stored by the producer
6 in the grain handler's facility, the assessment shall
7 be collected from the producer at the time the purchase
8 price is paid by the grain handler to the producer.

9 The amount of the assessment shall be calculated
10 by multiplying the assessment rate specified in section
11 6, subsection 1, of this Act by the contract price
12 of the grain.

13 c. The proceeds of the fund will not be available
14 to producers who cannot produce warehouse receipts
15 or an incomplete cash sale contract.

16 3. The grain handler shall issue a receipt to
17 the producer for the amount collected as an assessment.
18 The receipt shall be in a form specified by the
19 trustee.

20 4. Failure to collect or remit assessments as
21 required shall be grounds for revocation of the grain
22 handler's warehouse license and grain dealer's license.

23 Sec. 8. NEW SECTION. INSURANCE PROVISIONS.

24 1. A producer who incurs a loss in connection
25 with the storage of grain with or the sale of grain
26 to a grain handler shall have a claim against the
27 insurance fund, subject to the conditions and
28 limitations contained in this section.

29 2. A loss is not compensable unless the loss is
30 caused by one of the following:

31 a. Default of a grain handler with respect to
32 a contract to store grain. The amount of the loss
33 shall be determined according to the full market value
34 of the grain as of the date of storage noted on the
35 warehouse receipt.

36 b. Default of a grain handler in paying for
37 purchased grain pursuant to a cash sale.

38 c. A loss under a credit sale contract is not
39 compensable.

40 3. A loss is not compensable if it arose out of
41 a transaction with an unlicensed person or with a
42 person whose license was under suspension at the time
43 the transaction took place.

44 4. Compensation shall not be paid by the insurance
45 fund unless the claimant has filed such evidence of
46 the loss and the claim as may be required by trustee.
47 The claimant has the burden of proving the loss and
48 the amount of the loss.

49 5. A producer must file a claim for a loss with
50 a trustee. The trustee will establish a period for

1 filing running for one hundred eighty days from the
2 date that claims are determined to be appropriate.
3 The claim period will be published twice during the
4 period in a publication of general circulation serving
5 the area where the grain handler had an offices or
6 installation. A failure to file a claim within the
7 required time shall terminate all liability of the
8 insurance fund with respect to that person's loss.

9 Sec. 9. NEW SECTION. DISCLOSURE OF CLAIMS.
10 Information relating to claims filed against the
11 insurance fund is a matter of public record and is
12 subject to examination and copying by the public under
13 chapter 68A.

14 Sec. 10. NEW SECTION. PAYMENT OF CLAIMS.
15 1. Compensation shall be paid from the insurance
16 fund at the discretion of the trustee but within sixty
17 days of presenting valid proof of loss claims.
18 2. Compensation shall be payable only from net
19 assets. "Net assets" means liquid assets of the
20 insurance fund as of the close of the fiscal year.
21 3. The trustee shall direct the treasurer of state
22 to make payment due to claimants from the insurance
23 fund as soon as the liabilities of the fund are
24 determined.

25 Sec. 11. NEW SECTION. DISCLOSURE OF INSURANCE
26 PROVISIONS. The trustee may authorize grain handlers
27 to post signs upon business premises disclosing that
28 transactions are provided protection by the insurance
29 fund, and that the insurance fund is financed by grain
30 producers. A grain handler shall not make any
31 disclosure except according to rules adopted by the
32 trustee.

33 Sec. 12. NEW SECTION. USE OF FUND EARNINGS.
34 1. The general assembly may appropriate earnings
35 of the insurance fund for use by the warehouse division
36 of the Iowa commerce commission in maintaining a staff
37 of accounting specialists to audit the business of
38 a grain handler conducted under chapters 542 or 543.
39 2. Funds appropriated to the commission under
40 subsection 1 shall not be used for any purpose other
41 than that specified in subsection 1.

42 Sec. 13. NEW SECTION. JUDICIAL REVIEW. Actions
43 of the trustee are subject to judicial review under
44 chapter 17A.

45 Sec. 14. TEMPORARY NEW SECTION. REFERENDUM--
46 EFFECTIVE DATE.

47 1. Sections 1 through 14 of this Act shall not
48 take effect unless eligible producers vote in favor
49 of establishing the insurance fund at a referendum
50 held for this purpose.

H-3709
Page Five

- 1 2. The extension service of the Iowa state
2 university will conduct a referendum as follows:
3 a. Upon receipt of a petition signed by at least
4 five hundred producers requesting an initial referendum
5 election to determine whether a promotional order
6 shall be placed in effect, the secretary shall call
7 an initial referendum election to be conducted within
8 sixty days following receipt of the petition.
9 b. If the initial referendum fails subsequent
10 referenda will be possible when five hundred producers
11 petition the trustee but subsequent petitions will
12 not be eligible prior to one year after the initial
13 referendum and additional referenda cannot be held
14 more often than annually thereafter.
- 15 3. Eligible producers shall be entitled to vote
16 at the referendum election in the county in which
17 they reside. An eligible producer is a person who
18 produced five acres or more of grain crops that were
19 stored in a warehouse or sold to a grain handler
20 during the calendar year most recently ended prior
21 to the date of the election. Eligible producers shall
22 vote by written ballot. Each eligible producer shall
23 be entitled to one vote, and shall sign an affidavit
24 at the time of voting that certifies his or her
25 eligibility to vote. At the close of a referendum
26 voting period the ballots shall be counted and tabu-
27 lated. The ballots shall constitute conclusive
28 evidence of the validity of the referendum. The
29 extension service shall notify the trustee of the
30 results of the election within fifteen days after
31 the election date.
- 32 4. If a majority of the eligible producers that
33 vote in the referendum vote in favor of the
34 establishment of the insurance fund, assessments shall
35 commence October 1 following the election. The trustee
36 shall publish notice of the results of the election,
37 and the commencement date of assessments, if any."
- 38 2. Page 20, by inserting after line 21 the
39 following:
40 "6. Specific records accounting for grain stored
41 and sold by the grain handler during the period covered
42 by the audit."
43 3. Page 24, line 4, by striking the word "once"
44 and inserting in lieu thereof the word "twice".
45 4. Page 27, by striking lines 2 through 11 and
46 inserting in lieu thereof the following:
47 "b. The warehouseman shall submit, as required
48 by the commission, a financial statement that is
49 accompanied by the report of a certified public
accountant licensed in this state that is based upon

Page Thirty-five
April 21, 1981

H-3709
Page Six

- 1 a review performed by the certified public accountant."
2 5. Page 30, by striking lines 4 through 7 and
3 inserting in lieu thereof the following: "be issued
4 for all grain held in open storage ~~7-within-six-months~~
5 ~~of-delivery-to-the-warehouse,-unless-the-depositor~~
6 ~~has-signed-a-statement-that-the-depositor-does-not~~
7 ~~desire-a-warehouse-receipt.~~ The warehouseman's tariff
8 shall apply".
9 6. Page 35, by inserting after line 13 the
10 following:
11 "6. Specific records accounting for grain stored
12 and sold by the grain handler during the period covered
13 by the audit."

H-3709 FILED APRIL 16, 1981 BY DANKER of Pottawattamie
Placed out of order 5/4/81 (p 1611)

HOUSE FILE 841

H-3708

- 1 Amend the DeGroot amendment, H- 3698 to House File
2 841 as follows:
3 1. Line 3 , by striking the words "two hundred
4 fifty" and inserting in lieu thereof the words "five
5 hundred".
6 2. Line 7 , by striking the words "one hundred
7 fifty" and inserting in lieu thereof the words "two
8 hundred fifty".

H-3708 FILED APRIL 16, 1981 BY ANDERSON of Audubon
Placed out of order 5/4/81

HOUSE FILE 841

H-3706

1 Amend House File 841 as follows:

2 1. By striking page 8, line 4 through page 9,
3 line 1 and inserting in lieu thereof the following:

4 "Sec. 15. NEW SECTION. REFERENDUM--EFFECTIVE
5 DATE.

6 1. Sections 1 through 14 of this Act shall not
7 take effect unless eligible producers vote in favor
8 of establishing the insurance fund at a referendum
9 held for this purpose.

10 2. The extension service of the Iowa state
11 university will conduct a referendum as follows:

12 a. Upon receipt of a petition signed by at least
13 five hundred producers requesting an initial referendum
14 election to determine whether the insurance fund shall
15 be placed in effect, the extension service shall call
16 an initial referendum election to be conducted within
17 sixty days following receipt of the petition.

18 b. If the initial referendum fails, subsequent
19 referenda may be held whenever five hundred producers
20 petition the trustee and until the referendum passes,
21 but a subsequent referendum shall not be eligible
22 prior to one year after the date of the most recent
23 referendum.

24 3. Eligible producers shall be entitled to vote
25 at the referendum election in the county in which
26 they reside. An eligible producer is a person who
27 produced five acres or more of grain crops that were
28 stored in a warehouse or sold to a grain dealer during
29 the calendar year most recently ended prior to the
30 date of the election. Eligible producers shall vote
31 by written ballot. Each eligible producer shall be
32 entitled to one vote, and shall sign an affidavit
33 at the time of voting that certifies his or her
34 eligibility to vote. At the close of a referendum
35 voting period the ballots shall be counted and
36 tabulated. The ballots shall constitute conclusive
37 evidence of the validity of the referendum. The
38 extension service shall notify the trustee of the
39 results of the election within fifteen days after
40 the election date.

41 4. If a majority of the eligible producers that
42 vote in the referendum vote in favor of the
43 establishment of the insurance fund, assessments shall
44 commence October 1 following the election. The trustee
45 shall publish notice of the results of the election,
46 and the commencement date of assessments, if any."

HOUSE FILE 841

H-3696

- 1 Amend House File 841 as follows:
2 1. Page 5, by inserting after line 2 the following:
3 "Sec. 8. NEW SECTION. REFUND OF ASSESSMENTS--
4 WAIVER OF INSURANCE.
5 1. A grain producer who has paid assessments under
6 this chapter during a fiscal year may, by submitting
7 an application in writing to the trustee not later
8 than July 15 following the close of the fiscal year,
9 obtain a refund of all assessments paid during the
10 fiscal year, as evidenced by the receipts issued under
11 section 7, subsection 3 of this Act.
12 2. As a condition of accepting a refund of
13 assessments, the grain producer shall have waived
14 all claims the producer may have against the insurance
15 fund with respect to losses. A grain producer who
16 has received a refund under this section for one or
17 more years shall not be entitled to any compensa-
18 tion from the insurance fund, notwithstanding any
19 other provision of this chapter, unless the grain
20 producer has become reinsured by paying assessments
21 due under this chapter, and not claiming a refund,
22 for at least one fiscal year prior to the fiscal year
23 in which a compensable loss occurs.
24 3. The trustee shall provide refund application
25 forms upon request. The trustee shall not pay any
26 refund except upon proper application and tender of
27 all receipts proving payment of assessments. The
28 trustee shall permanently cancel all receipts tendered
29 in exchange for a refund, and shall retain these
30 receipts with the records of the insurance fund.
31 The trustee shall pay each refund within thirty days
32 after receipt of proper application."
33 2. Page 5, line 21, by inserting after the word
34 "place" the words ", or if the grain producer is unin-
35 sured as a result of section 8 of this Act".
36 3. By renumbering sections and correcting internal
37 references.

H-3696 FILED APRIL 16, 1981 BY LAGESCHULTE of Bremer

Placed out of order 5/4/81

HOUSE FILE 841

H-3691

- 1 Amend House File 841 as follows:
2 1. Page 2, line 18, by inserting after the period
3 the following: "The trustee shall be appointed for
4 a term of office of four years, subject to confirmation
5 by the senate."

H-3691 FILED APRIL 16, 1981 BYERLY of Polk

Placed out of order 5/4/81 (p. 1611)

Page Two
April 21, 1981

HOUSE FILE 841

H-3698

1 Amend House File 841 as follows:

- 2 1. Page 10, lines 10 and 11, by striking the words
3 "two hundred fifty thousand" and inserting in lieu
4 thereof the words "three hundred fifty thousand".
5 2. Page 26, line 7, by striking the words "one
6 hundred thousand" and inserting in lieu thereof the
7 words "one hundred fifty thousand".

H-3698 FILED APRIL 21, 1981 BY DE GROOT of Lyon

Placed out of order 5/4/81 (p. 1611)

HOUSE FILE 841

H-3697

1 Amend House File 841 as follows:

- 2 1. Page 3, line 7, by inserting after the word
3 "assessment" the following: "pursuant to the provisions
4 of this chapter. Nothing in this chapter shall restrict
5 the collection of assessments pursuant to the provisions
6 of chapter 185 or chapter 185C";

H-3697 FILED APRIL 21, 1981 BY PELLETT of Cass

Placed out of order 5/4/81

HOUSE FILE 841

H-3692

1 Amend House File 841 as follows:

- 2 1. Page 1, by striking lines 23 through 25 and
3 inserting in lieu thereof the following:
4 "3. "Full market value" means the average price
5 of grain at the three elevators nearest the business
6 location of the elevator or grain dealer with whom
7 the loss was incurred as of the day the trustee
8 determines the loss occurred."

H-3692 FILED APRIL 21, 1981 BY DAVITT of Warren

Placed out of order 5/4/81

SULLIVAN of Van Buren

HOUSE FILE 841

H-3690

1 Amend House File 841 as follows:

- 2 1. Page 8, line 20, by striking the words "for
3 resale" and inserting in lieu thereof the words "that
4 either were delivered to a licensed warehouse or sold
5 to a licensed grain dealer".

H-3690 FILED APRIL 21, 1981 BY SULLIVAN of Van Buren

Placed out of order 4/5/81

DAVITT of Warren

H-3715

1 Amend House File 841 as follows:

2 1. Page 5, by striking lines 28 through 30 and
3 inserting in lieu thereof the words "required by the
4 trustee to assign to the insurance fund, subject to
5 the limitations on reimbursement of the fund specified
6 in section 11 of this Act:".

7 2. Page 7, by inserting after line 12 the
8 following:

9 "Sec. 11. NEW SECTION. PROCEEDS FROM ASSIGNED
10 CLAIMS. The rights of the insurance fund in the
11 proceeds from rights and claims assigned to the
12 insurance fund by a claimant under section 8,
13 subsection 4, paragraph b of this Act shall be subject
14 to the following limitations:

15 1. If sufficient assets were available in the
16 insurance fund to permit payment of the maximum amount
17 of compensation specified in section 8, subsection
18 5 of this Act, the insurance fund is entitled to
19 reimbursement out of the proceeds to the extent of
20 the amount so paid by the insurance fund to the
21 claimant.

22 2. If sufficient assets were not available in
23 the insurance fund to permit payment of the maximum
24 amount of compensation specified in section 8,
25 subsection 5 of this Act, the insurance fund is not
26 entitled to any reimbursement unless the amount of
27 proceeds from assignments plus the amount distributed
28 to the claimant under section 8, subsection 6 of this
29 Act exceeds the maximum amount of compensation
30 specified in section 8, subsection 5 of this Act,
31 and then the amount of reimbursement shall be limited
32 to the excess, or the amount distributed to the
33 claimant under section 8, subsection 6 of this Act,
34 whichever is less.

35 3. If amounts collected by the insurance fund
36 as proceeds from assignments exceed in the aggregate
37 the amount of reimbursement to which the insurance
38 fund is entitled, the trustee shall pay the excess
39 to the claimant."

40 3. Page 8, lines 10 and 11, by striking the words
41 "first Tuesday in September following enactment of
42 this Act" and inserting in lieu thereof the words
43 and figures "January 12, 1982".

44 4. Page 9, by inserting after line 33 the
45 following:

46 "Sec. ____ . Section 542.2, Code 1981, is amended
47 to read as follows:

48 542.2 DUTIES AND POWERS OF THE COMMISSION. The
49 commission may exercise general supervision over the
50 business operations of grain dealers. The supervisory

H-3715
Page Two

- 1 and regulatory powers authorized by this chapter shall
2 be the responsibility of the warehouse division of
3 the commission. The commission ~~may~~ shall inspect
4 or cause to be inspected, at least twice in every
5 twelve-month period, any grain dealer operating in
6 this state, and may require the filing of reports
7 pertaining to the operation of ~~his~~ the grain dealer's
8 business. The commission shall adopt rules to provide
9 for the efficient administration and regulation of
10 the provisions of this chapter, and may designate
11 an employee of the commission to act for the commission
12 in any details connected with such administration,
13 including the issuance of licenses and approval of
14 grain dealers' bonds in the name of the commission."
15 5. Page 10, by striking lines 5 through 19.
16 6. Page 11, line 9, by striking the word and
17 figure "class 1".
18 7. Page 11, line 19, by striking the word and
19 figure "class 1".
20 8. By striking page 11, line 24 through page 12,
21 line 7.
22 9. Page 12, by striking lines 15 through 24.
23 10. By striking page 12, line 30 through page
24 13, line 1.
25 11. Page 13, by striking line 14 and inserting
26 in lieu thereof the words "in a penal sum of twenty-
27 ~~five~~ fifty thousand dollars per license".
28 12. Page 13, by striking lines 20 through 23 and
29 inserting in lieu thereof the words "of such bond.
30 One bond, cumulative as to minimum".
31 13. Page 13, by striking lines 25 through 29,
32 and inserting in lieu thereof the words "~~licenses~~
33 more than one license but in no event shall the total
34 amount of bond exceed one hundred thousand dollars.
35 No bond shall be canceled by a surety".
36 14. Page 14, by striking lines 25 through 30.
37 15. Page 15, by striking lines 2 and 3 and
38 inserting in lieu thereof the words "dollars per year.
39 The commission shall prorate".
40 16. Page 15, by striking lines 7 through 9 and
41 inserting in lieu thereof the following: "For each
42 inspection of a grain dealer, one hundred thirty
43 dollars. However, a grain dealer that also is licensed
44 under chapter 543 as a warehouse shall not be assessed
45 for more than one inspection fee under this subsection
46 during any twelve-month period."
47 17. Page 15, line 12, by inserting after the word
48 "vehicle" the words "owned or leased by the license
49 holder and".
50 18. Page 18, by striking lines 14 through 16 and

April 21, 1981

H-3715

Page Three

- 1 inserting in lieu thereof the words "or other documents
- 2 required by this chapter commits a serious".
- 3 19. Page 19, line 5, by striking the words "at
- 4 the time of printing of the forms".
- 5 20. Page 19, lines 6 and 7, by striking the words
- 6 "forms and numbers obtained" and inserting in lieu
- 7 thereof the words "numbers used".
- 8 21. Page 20, lines 25 and 26, by striking the
- 9 words "form and".
- 10 22. Page 21, by striking lines 5 through 29.
- 11 23. Page 24, line 4, by striking the word "once"
- 12 and inserting in lieu thereof the word "twice".
- 13 24. Page 25, line 13, by striking the words "form
- 14 and".
- 15 25. Page 26, by striking lines 4 through 9.
- 16 26. Page 26, line 22, by striking the word and
- 17 figure "class 1".
- 18 27. Page 26, line 32, by striking the word and
- 19 figure "class 1".
- 20 28. Page 27, by striking lines 2 through 21.
- 21 29. By striking page 27, line 33 through page
- 22 28, line 3.
- 23 30. Page 29, line 13, by striking the words
- 24 "~~notice, by-certified-mail~~" and inserting in lieu
- 25 thereof the words "notice by certified mail,".
- 26 31. Page 29, line 15, by striking the word "ten"
- 27 and inserting in lieu thereof the word "thirty".
- 28 32. Page 32, lines 1 and 2, by striking the words
- 29 "monthly, quarterly or for any other period more
- 30 frequent" and inserting in lieu thereof the words
- 31 "~~monthly, quarterly or for any other period~~ more
- 32 frequent frequently".
- 33 33. Page 33, by inserting after line 4 the
- 34 following:
- 35 "____. For each inspection of a warehouse, other
- 36 than an inspection for the purpose of licensing,
- 37 thirty dollars."
- 38 34. Page 33, by striking lines 30 through 32 and
- 39 inserting in lieu thereof the words "or other documents
- 40 required by this chapter commits".
- 41 35. By renumbering sections and subsections and
- 42 correcting references as necessary.

H-3715 FILED
APRIL 16, 1981

BY HARBOR of Mills
DAVITT of Warren

*Placed out of order 5/4/81
(p. 1611)*

HOUSE FILE 841

H-3717

1 Amend House File 841 as follows:

2 1. Page 8, by striking lines 4 through 16 and
3 inserting in lieu thereof the following:

4 "Sec. 15. TEMPORARY NEW SECTION. TENTATIVE
5 EFFECTIVE DATE--REFERENDUM.

6 1. Sections 1 through 14 of this Act shall take
7 effect January 1, 1982, unless a referendum is held
8 pursuant to petition as provided in subsection 2 and
9 establishment of the insurance fund is disapproved
10 at that referendum.

11 2. If petitions signed by five hundred or more
12 eligible producers as defined in subsection 3 are
13 received by the extension service of Iowa state
14 university before November 1, 1981, the extension
15 service shall conduct a referendum on the questions
16 "shall the Iowa grain producer insurance fund be
17 established" at a date as established by the extension
18 service. The extension service shall give notice
19 of the referendum in a newspaper of general circulation
20 in this state at least ten days prior to the date
21 of the referendum. The notice shall specify the date
22 of the election, the period of time for voting, voting
23 places, and such other information as may be
24 necessary."

25 2. Page 8, lines 33 and 34, by striking the words
26 "October 1 following the election" and inserting in
27 lieu thereof the words "January 1, 1982. If a majority
28 of the eligible producers that vote in the referendum
29 do not vote in favor of the establishment of the
30 insurance fund, sections 1 through 14 of this Act
31 shall not take effect".

H-3717 FILED APRIL 16, 1981

BY DIELEMAN of Marion

Placed out of order 4/21 (p 1611)

HOUSE FILE 841

18

1 Amend House File 841 as follows:

2 1. Page 1, by striking lines 20 through 22 and
3 inserting in lieu thereof the following:

4 "2. "Grain handler" means a licensee under chapter
5 542, or under chapter 543, or under both of those
6 chapters, who has applied for and purchased insurance
7 coverage from the insurance fund as provided in this
8 chapter."

9 2. Page 2, line 3, by striking the word
10 "assessments" and inserting in lieu thereof the word
11 "premiums".

12 3. By striking page 3, line 1 through page 5,
13 line 2 and inserting in lieu thereof the following:

14 "Sec. 6. NEW SECTION. INSURANCE PREMIUMS--
15 REINSURANCE.

16 1. Each grain handler that has requested to be
17 insured by the insurance fund shall pay an annual
18 premium to the trustee. The annual premium shall
19 be in an amount determined by the trustee according
20 to this section, and shall be payable in quarterly
21 installments having respective due dates of July 10,
22 October 10, January 10 and April 10 of each fiscal
23 year of the insurance fund.

24 2. The premiums established by the commission
25 under this section shall be subject to the following
26 conditions and limitations:

27 a. The annual premium revenues shall be such that
28 the amount of assets of the insurance fund that exist
29 after the close of the fiscal year after deducting
30 outstanding liabilities for the year and reserves
31 for potential liability on claims arising during the
32 year, is not less than five million dollars.

33 b. The premium charged any insured shall bear
34 a reasonable relationship to the risk to the insurance
35 fund of insuring that insured.

36 3. A grain handler that fails to pay a premium
37 installment within fifteen days after the due date
38 shall be canceled from coverage by the insurance fund.
39 Cancellation shall be effective upon receipt of the
40 notice of cancellation, and shall absolve the insurance
41 fund from losses that arise out of grain delivered
42 to the grain handler for storage or sale after that
43 date.

44 4. The trustee may reinsure any part or all of
45 the risks underwritten by the insurance fund, and
46 may expend premium revenues or earnings of the fund,
47 or both, to purchase reinsurance."

48 4. Page 5, by striking lines 18 through 21 and
49 inserting in lieu thereof the following:

"3. A loss is not compensable unless the person

1 to whom the grain was delivered in the storage or
2 sale transaction was insured by the insurance fund
3 at the time of delivery."

4 5. Page 7, lines 16 and 17, by striking the words
5 ", and that the insurance fund is financed by grain
6 producers".

7 6. Page 8, line 7, by striking the words "eligible
8 producers" and inserting in lieu thereof the words
9 "grain dealers licensed under chapter 542 and
10 warehouses licensed under chapter 543".

11 7. Page 8, by striking line 15 and inserting in
12 lieu thereof the words "of time for voting, the
13 location in Ames, Iowa to which votes must be mailed
14 or delivered, and such other information".

15 8. Page 8, line 17, by striking the word
16 "producers" and inserting in lieu thereof the word
17 "licensees".

18 9. Page 8, by striking lines 17 through 30 and
19 inserting in lieu thereof the following:

20 "3. Eligible licensees shall be entitled to vote
21 by submitting a written ballot to the extension service
22 of Iowa state university at Ames, Iowa, as prescribed
23 by the extension service. A licensee shall be entitled
24 to one vote, whether licensed under chapter 542,
25 chapter 543, or both. The person casting the vote
26 shall sign a notarized affidavit stating the person's
27 authority to cast the vote on behalf of the licensee.
28 At the close of the referendum period, the ballots
29 shall be counted and tabulated. The extension service
30 shall certify the results of the election to the
31 commerce commission as soon as the results can be
32 finally determined."

33 10. Page 8, line 31, by striking the word
34 "producers" and inserting in lieu thereof the word
35 "licensees".

36 11. By striking page 8, line 31 through page 9,
37 line 1, and inserting in lieu thereof the following:

38 "4. If a majority of the eligible licensees that
39 vote in the referendum vote in favor of the
40 establishment of the insurance fund, as certified
41 to the commerce commission by the extension service,
42 the commerce commission shall promptly appoint a
43 trustee. The trustee shall establish the insurance
44 fund and the premiums for the first year of operation,
45 and shall mail written notice to all licensees. The
46 trustee shall accept applications from grain handlers,
47 and shall establish the effective date of insurance
48 coverage under the insurance fund. The trustee shall
49 publish notice of the effective date of insurance
50 coverage under the insurance fund in a newspaper of
Page Three

1 general circulation in the state. Insurance coverage
2 shall only apply with respect to grain that is
3 delivered to an insured grain handler on or after
4 the effective date of insurance coverage as published
5 by the trustee."

6 12. By renumbering sections of the bill.

HOUSE FILE 841

H-3729

1 Amend House File 841 as follows:

2 1. By striking page 22, line 32, through page
3 23, line 1, and inserting in lieu thereof the words
4 "a fraudulent practice. The person shall post a
5 notice of the rate of adjustment in accordance with
6 rules adopted by the commerce commission."

7 2. Page 23, by striking lines 6 through 8, and
8 inserting in lieu thereof the words "notice of the
9 rate of adjustment in accordance with rules adopted
10 by the commerce commission."

11 3. Page 23, by striking lines 15 through 20 and
12 inserting in lieu thereof the words "shall post, in
13 accordance with rules adopted by the commerce
14 commission, notice of the moisture shrinkage factor
15 prescribed by section 1, the handling shrinkage factor
16 to be imposed, and the single factor that results
17 from combining these factors."

18 4. Page 23, by inserting after line 20 the
19 following:

20 "_____. The commerce commission shall adopt rules
21 to provide for uniformity of the notices required
22 by this section. These rules shall specify the size,
23 form and content of the required notices, and the
24 permissible locations where the notices may be posted.
25 A person who violates a rule adopted by the commerce
26 commission under this subsection is guilty of a simple
27 misdemeanor."

28 5. Page 35, by striking lines 26 through 30 and
29 inserting in lieu thereof the words "a fraudulent
30 practice. The person shall post a notice of the rate
31 of adjustment in accordance with rules adopted by
32 the commerce commission."

33 6. By striking page 35, line 35 through page 36,
34 line 2, and inserting in lieu thereof the words "notice
35 of the rate of adjustment in accordance with rules
36 adopted by the commerce commission."

37 7. Page 36, by striking lines 9 through 14 and
38 inserting in lieu thereof the words "shall post, in
39 accordance with rules adopted by the commerce
40 commission, notice of the moisture shrinkage factor
41 prescribed by section 1, the handling shrinkage factor
42 to be imposed, and the single factor that results
43 from combining these factors."

44 8. Page 36, by inserting after line 14 the
45 following:

46 "_____. The commerce commission shall adopt rules
47 to provide for uniformity of the notices required
48 by this section. These rules shall specify the size,
49 form and content of the required notices, and the
50 permissible locations where the notices may be posted.

Page 7
April 22, 1981

H-3729
Page 2

1 A person who violates a rule adopted by the commission
2 under this subsection is guilty of a simple
3 misdemeanor."

H-3729 FILED APRIL 21, 1981 BY BYERLY of Polk
Placed out of order 4/81 (p. 1611) SCHROEDER of Pottawattamie

HOUSE FILE 841

H-3727

1 Amend House File 841 as follows:
2 1. Page 9, line 10, by inserting after the word
3 "grain" the word "solely".
4 2. Page 9, line 13, by inserting after the word
5 "person the word "solely".

H-3727 FILED APRIL 21, 1981 BY WELSH of Dubuque
Placed out of order 5/4/81

HOUSE FILE 841

H-3746

1 Amend House File 841 as follows:

2 1. Page 1, line 4, by striking the word "FUND"
3 and inserting in lieu thereof the word "PROGRAM".

4 2. Page 1, line 6, by striking the word "fund"
5 and inserting in lieu thereof the word "program".

6 3. Page 1, by striking lines 26 and 27 and
7 inserting in lieu thereof the following:

8 "4. "Insurance fund" means either the grain
9 producer noncooperative insurance fund established
10 under section 4 of this Act or the grain producer
11 cooperative insurance fund established under section
12 5 of this Act."

13 4. Page 1, line 30, by inserting after the word
14 "PRODUCER" the word "NONCOOPERATIVE".

15 5. Page 1, line 32, by inserting after the word
16 "producer" the word "noncooperative".

17 6. Page 1, line 35, by inserting after the word
18 "handler" the words ", other than a cooperatively-
19 owned grain handler,".

20 7. Page 2, by inserting after line 14 the
21 following:

22 "5. The assets of the grain producer noncooperative
23 insurance fund shall be maintained separate from the
24 grain producer cooperative insurance fund, and shall
25 only be subject to claims arising out of grain
26 delivered to a grain dealer that is not cooperatively
27 owned.

28 Sec. 5. NEW SECTION. IOWA GRAIN PRODUCER
29 COOPERATIVE INSURANCE FUND ESTABLISHED--TRUSTEE.

30 1. There is established a grain producer
31 cooperative insurance fund, which shall be a perpetual
32 trust fund to be administered as provided in this
33 chapter for the benefit of the producers of grain
34 who deliver grain to a cooperatively-owned grain
35 handler in this state for purposes of storage or sale.

36 2. The insurance fund shall consist of income
37 from assessments and subrogation rights under this
38 chapter, plus interest or earnings, less disbursements
39 permitted by this chapter.

40 3. The insurance fund shall be administered by
41 the trustee.

42 4. The trustee shall deliver the assets of the
43 insurance fund to the custody of the treasurer of
44 state, who shall disburse money from the insurance
45 fund only upon the direction of the trustee. The
46 treasurer of state shall invest the money held in
47 the insurance fund, but investments shall be limited
48 to short-term, highly liquid securities. The assets
49 of the insurance fund shall be maintained separate
50 from any other funds in the custody of the treasurer

April 22, 1981

H-3746

Page 2

1 of state.

2 5. The assets of the grain producer cooperative
3 insurance fund shall be maintained separate from the
4 grain producer noncooperative insurance fund, and
5 shall only be subject to claims arising out of grain
6 delivered to a cooperatively-owned grain dealer."

7 8. Page 2, line 17, by striking the word "fund"
8 and inserting in lieu thereof the word "funds".

9 9. Page 2, by striking line 23 and inserting in
10 lieu thereof the words "funds. The insurance funds
11 shall be administered according".

12 10. Page 2, line 30, by striking the word "fund"
13 and inserting in lieu thereof the word "funds".

14 11. Page 2, line 35, by striking the word "fund"
15 and inserting in lieu thereof the word "funds".

16 12. Page 3, by striking lines 8 through 17 and
17 inserting in lieu thereof the following:

18 "2. The trustee shall determine the unencumbered
19 balance of each insurance fund as of the close of
20 each fiscal year, ending June 30.

21 a. If the unencumbered balance of the
22 noncooperative insurance fund as of the end of a
23 fiscal year is less than three million dollars, the
24 trustee shall issue a notice declaring that the
25 assessment shall be in effect on grain delivered to
26 a grain handler other than a cooperatively-owned grain
27 handler during the following fiscal year, commencing
28 on the date specified in the notice. If the
29 unencumbered balance as of the end of a fiscal year
30 is three million dollars or more, assessments shall
31 not be payable during the following fiscal year.

32 b. If the unencumbered balance of the cooperative
33 insurance fund as of the end of a fiscal year is less
34 than five million dollars, the trustee shall issue
35 a notice declaring that the assessment shall be in
36 effect on grain delivered to a cooperatively-owned
37 grain handler during the following fiscal year,
38 commencing on the date specified in the notice. If
39 the unencumbered balance as of the end of the fiscal
40 year is five million dollars or more, assessments
41 shall not be payable during the following fiscal
42 year."

43 13. Page 3, line 18, by striking the word "notice"
44 and inserting in lieu thereof the word "notices".

45 14. Page 5, by inserting after line 2 the
46 following:

47 "7. The trustee shall establish procedures under
48 this section to assure that assessments collected
49 and remitted by cooperatively-owned grain handlers
50 are maintained separate from assessments collected

H-3746
Page 3

1 and remitted by grain handlers that are not
2 cooperatively owned."

3 15. Page 5, line 6, by inserting after the words
4 "against the" the word "appropriate".

5 16. Page 5, by inserting after line 7 the
6 following:

7 "2. A claim does not exist against the
8 noncooperative insurance fund unless the loss was
9 incurred in connection with the storage of grain with
10 or the sale of grain to a grain handler other than
11 one that is cooperatively owned. A claim does not
12 exist against the cooperative insurance fund unless
13 the loss was incurred in connection with the storage
14 of grain with or the sale of grain to a cooperatively-
15 owned grain handler."

16 17. Page 6, line 24, by striking the words "the
17 insurance fund" and inserting in lieu thereof the
18 words "either insurance fund".

19 18. Page 6, line 28, by inserting after the word
20 "fund" the words "that is liable".

21 19. Page 7, by striking lines 3 through 5 and
22 inserting in lieu thereof the following:

23 "3. The trustee shall set aside the amount of
24 thirty-seven thousand dollars out of the assets of
25 the noncooperative insurance fund as they exist as
26 of the end of the fiscal year, and the amount of
27 sixty-three thousand dollars out of the assets of
28 the cooperative insurance fund as they exist as of
29 the end of the fiscal year, and shall place these
30 amounts into a consolidated expense fund. This fund".

31 20. Page 7, line 11, by striking the word "the"
32 and inserting in lieu thereof the word "an".

33 21. Page 7, lines 21 and 22, by striking the words
34 "the insurance fund" and inserting in lieu thereof
35 the words "either or both of the insurance funds".

36 22. Page 7, line 33, by striking the words "the
37 insurance fund" and inserting in lieu thereof the
38 words "the respective insurance funds, on the basis
39 of costs attributable to the administration of each
40 respective insurance fund,".

41 23. Page 8, line 6, by inserting after the word
42 "effect" the words "with respect to grain delivered
43 to a grain handler that is not cooperatively owned".

44 24. Page 9, by inserting after line 1 the
45 following:

46 "Sec. . . . TEMPORARY NEW SECTION. COOPERATIVES-
47 -EFFECTIVE DATE. Sections 1 through 14 of this Act
48 shall apply with respect to grain delivered to a
49 cooperatively-owned grain handler on or after January
50 1 following the enactment of this Act. The trustee

H-3746
Page 4

- 1 shall publish notice of the commencement date of
- 2 assessments."
- 3 25. By renumbering sections and subsections and
- 4 correcting internal references as necessary.

H-3746 FILED APRIL 21, 1981 BY NORLAND of Worth
Placed out of order 5/4/81 (p 1611)

HOUSE FILE 841

H-3731

- 1 Amend House File 841 as follows:
- 2 1. Page 23, by inserting after line 20 the
- 3 following:
- 4 "Sec. ____ Chapter 542, Code 1981, is amended
- 5 by adding the following new section:
- 6 NEW SECTION. LOCAL BANK REQUIRED. A grain dealer
- 7 shall not issue a check, draft, or other instrument
- 8 in payment of purchased grain except one that is drawn
- 9 on a bank located within twenty-five miles of the
- 10 grain dealer's principal place of business in this
- 11 state. This section does not apply to a grain dealer
- 12 that is organized as a cooperative association."

H-3731 FILED APRIL 21, 1981 BY DANKER of Pottawattamie
Placed out of order 5/4/81

H-3831

1 Amend House File 841 as follows:

2 1. Page 29, by inserting after line 26 the
3 following:

4 "Sec. ____ Section 543.12, Code 1981, is amended
5 by adding the following new unnumbered paragraph:

6 NEW UNNUMBERED PARAGRAPH. The bond required under

7 this section shall not apply to a breach of any
8 obligation that arises with respect to grain that

9 is owned wholly or in part by the warehouseman

10 submitting the bond or by another warehouseman, whether

11 or not licensed under this chapter, and section 543.14

12 does not authorize a claim against the bond by any

13 person whose injury arises out of an interest in or

14 a claim against grain that is owned wholly or in part

15 by the warehouseman submitting the bond or by another

16 warehouseman. A warehouseman may acquire a separate

17 bond to cover obligations with respect to grain owned

18 by the warehouseman or by another warehouseman, but

19 this chapter does not apply to a bond so acquired."

20 2. By renumbering sections of the bill.

H-3831 FILED APRIL 27, 1981 BY HOWELL of Floyd

Placed out of order 5/4/81

(p 1611)

HOUSE FILE 841

H-3757

- 1 Amend amendment H-3660 to House File 841 as follows:
- 2 1. Page 1, by striking lines 2 and 3 and inserting
- 3 in lieu thereof the following:
- 4 "1. Page 2, by inserting after line 14, the following:
- 5 "____. The assets of the insurance fund shall be paid
- 6 over to Iowa state university, for the purpose of aiding
- 7 the construction of an agronomy building, and the insurance
- 8 fund shall cease to exist upon the occurrence of the
- 9 following:
- 10 a. Insurance becomes available through two or more
- 11 insurers other than the insurance fund.
- 12 b. The insurance protection described in paragraph
- 13 a provides comparable protection to that afforded by
- 14 this Act."
- 15 2. By numbering and renumbering as necessary to
- 16 conform to this amendment."

H-3757 FILED APRIL 22, 1981 BY TYRRELL of Iowa

Placed out of order 5/4/81 (p 1611)

HOUSE FILE 841

H-3763

- 1 Amend amendment H-3746 to House File 841 as
- 2 follows:
- 3 1. Page 3, by striking lines 41 through 43 and
- 4 inserting in lieu thereof the following:
- 5 "23. Page 8, by striking line 4 through Page 9,
- 6 line 1."

H-3763 FILED APRIL 22, 1981 BY NORLAND of Worth

Placed out of order 5/4/81

HOUSE FILE 841

H-3787

- 1 Amend the amendment H-3706 to House File 841 as
- 2 follows:
- 3 1. Page 1, line 17, by adding after the word
- 4 "petition" the words and figures ", but in no event
- 5 shall the initial referendum be conducted before
- 6 January 12, 1982".

H-3787 FILED APRIL 23, 1981 BY ANDERSON of Audubon

Placed out of order 5/4/81

HOUSE FILE 841

H-3927

1 Amend House File 841 as follows:

2 1. By striking everything after the enacting
3 clause and inserting in lieu thereof the following:

4 "Section 1. Section 542.1, subsection 3, Code
5 1981, is amended to read as follows:

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

23 Sec. 2. Section 542.1, subsection 4, Code 1981,
24 is amended by striking the subsection and inserting
25 in lieu thereof the following:

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

30 Sec. 3. Section 542.1, Code 1981, is amended by
31 adding the following new subsection:

32 NEW SUBSECTION. "Credit-sale contract" means a
33 contract for the sale of grain pursuant to which the
34 sale price is to be paid at a date subsequent to the
35 delivery of the grain to the buyer, and includes but
36 is not limited to those contracts commonly referred
37 to as deferred payment contracts, deferred pricing
38 contracts, and price-later contracts.

39 Sec. 4. Section 542.3, Code 1981, is amended by
40 striking the section and inserting in lieu thereof
41 the following:

42 542.3 LICENSE REQUIRED. A person shall not engage
43 in the business of a grain dealer in this state without
44 having obtained a license issued by the commission.
45 The type of license required shall be determined as
46 follows:

47 1. A class 1 license is required if the grain
48 dealer purchases any grain by credit-sale contract,
49 or if the value of grain purchased by the grain dealer
50 from producers during the grain dealer's previous

1 fiscal year exceeds two hundred fifty thousand dollars.
2 Any other grain dealer may elect to be licensed as
3 a class 1 grain dealer.

4 2. A class 2 license is required for any grain
5 dealer not holding a class 1 license. A class 2
6 licensee whose purchases from producers during a
7 fiscal year exceed two hundred fifty thousand dollars
8 in value shall apply immediately for a class 1 license.
9 If a class 1 license is denied, the person immediately
10 shall cease doing business as a grain dealer.

11 Sec. 5. Section 542.4, Code 1981, is amended to
12 read as follows:

13 542.4 BOND REQUIRED. ~~Any person applying An~~
14 ~~applicant~~ for a license to operate as a grain dealer
15 ~~in accordance with this chapter~~ shall, as a condition
16 to the granting of the license, file with the
17 commission a bond payable to the state of Iowa with
18 a corporate surety approved by the commission ~~in a~~
19 ~~penal sum of twenty-five thousand dollars per license~~
20 conditioned that the applicant will pay the purchase
21 price of any grain to the ~~seller, and that the grain~~
22 ~~dealer owns or controls, free of liens, any grain~~
23 ~~which he or she offers for sale producer;~~ provided
24 that the aggregate liability of the surety to such
25 persons shall in no event exceed the sum of such bond.
26 The bond for each class 1 license shall be in the
27 penal sum of fifty thousand dollars. The bond for
28 each class 2 license shall be in the penal sum of
29 twenty-five thousand dollars. One bond, cumulative
30 as to minimum requirements, shall be required where
31 a person has multiple licenses more than one license,
32 but in no event shall the total amount of bond required
33 by this section exceed one hundred thousand dollars
34 three hundred thousand dollars for a class 1 licensee,
35 or one hundred fifty thousand dollars for a class
36 2 licensee. No bond shall be canceled by a surety
37 before at least sixty days' notice by certified mail
38 to the commission and the grain dealer. The liability
39 of the surety shall cover all purchases and
40 transactions made by the grain dealer during the time
41 the bond is in force. A grain dealer's bond filed
42 with this commission shall be in continuous force
43 until canceled by the surety. The liability of the
44 surety on any bond required by the provisions of this
45 chapter shall not accumulate for each successive
46 license period during which the bond is in force.

47 Sec. 6. Section 542.5, Code 1981, is amended to
48 read as follows:

49 542.5 LICENSE. Upon the filing of the application
50 and compliance with the terms and conditions of this

H-3927
Page Three

1 chapter and rules of the commission, the commission
2 shall issue a license to the applicant. The license
3 shall terminate on the thirtieth of June of each year.
4 A grain dealer's license may be renewed annually by
5 the filing of a renewal fee ~~7-a-current-financial~~
6 ~~statement~~ and a renewal application on a form
7 prescribed by the commission. An application for
8 renewal shall be received by the commission before
9 the thirtieth of June. A grain dealer license which
10 has terminated may be reinstated by the commission
11 upon receipt of a proper renewal application, ~~a-current~~
12 ~~financial-statement~~, the renewal fee, and penalty
13 fee in the amount of ten fifty dollars from the grain
14 dealer, provided that such materials are filed within
15 thirty days from the date of termination of the grain
16 dealer license. The commission may cancel a license
17 upon request of the licensee unless a complaint or
18 information is filed against the licensee alleging
19 a violation of a provision of this chapter.

20 If an applicant has had a license under chapter
21 542, 542A, or 543 revoked for cause within the past
22 three years, or has been convicted of a felony
23 involving violations of chapter 542, 542A, or 543,
24 or is owned or controlled by a person who has had
25 a license so revoked or who has been so convicted,
26 the commission may deny a license to the applicant.

27 Sec. 7. Section 542.6, unnumbered paragraph 1,
28 and subsections 1 and 2, Code 1981, are amended to
29 read as follows:

30 The commission shall collect fees-as-follows the
31 following fees, for deposit in the general fund:

32 1. For the issuance or renewal of a license,
33 twenty-five-dollars-per-year-or-fraction-of-a-year
34 two hundred dollars per year for a class 1 license,
35 and eighty-five dollars per year for a class 2 license.
36 The commission shall prorate the annual fee on a
37 monthly basis for licenses issued for less than a
38 full year.

39 2. For-renewal-of-license,-twenty-five-dollars
40 per-year- For the inspection of a class 1 grain
41 dealer, one hundred fifty dollars, and for each
42 inspection of a class 2 grain dealer, sixty-five
43 dollars.

44 Sec. 8. Section 542.9, Code 1981, is amended to
45 read as follows:

46 542.9 INSPECTION OF PREMISES, BOOKS AND RECORDS.
47 The commission may inspect the premises used by any
48 grain dealer in the conduct of his or her business
49 at any time---The, and the books, accounts, records
50 and papers of every such grain dealer which pertain

1 to grain purchases shall be subject to inspection
2 by the commission during ordinary business hours.
3 The commission shall cause the business premises and
4 books, accounts, records and papers of every grain
5 dealer to be inspected once during each twelve-month
6 period. The transporter of grain in transit shall
7 have ~~in-his-or-her-possession~~ bills of lading or other
8 documents covering such ~~the grain in-transit-and-such~~
9 ~~documents-shall-be-available-for-inspection-by-the~~
10 ~~commission-upon-request~~ in his or her possession,
11 and shall present them to any law enforcement officer
12 or to a person designated as an enforcement officer
13 under section 542.13 on demand. Any ~~grain-dealer~~
14 ~~licensed-in-this-state-who-does-not-have-a-place-of~~
15 ~~business-within-the-state-upon-the-request-of-the~~
16 ~~commission-shall-make-available-and-furnish-to-the~~
17 ~~commission-at-any-reasonable-time-and-place-the~~
18 ~~commission-may-set-all-such-books,-accounts,-records~~
19 ~~and-papers-of-grain-transactions-within-this-state-~~
20 Where there is good cause to believe that a person
21 is engaged without a license in the business of a
22 grain dealer in this state, the commission may inspect
23 the books, papers, and records of such ~~the person~~
24 which pertain to grain purchases.

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

36 Sec. 9. Section 542.11, Code 1981, is amended
37 to read as follows:

38 542.11 PENALTIES--MISDEMEANOR INJUNCTIONS. Any
39 ~~person-who-engages-in-business-as-a-grain-dealer~~
40 ~~without-obtaining-a-license-or-any-person-in-violation~~
41 ~~of-any-other-provision-of-this-chapter,-or-any-grain~~
42 ~~dealer-who-refuses-to-permit-inspection-of-his-or~~
43 ~~her-premises,-books,-accounts-or-records-as-provided~~
44 ~~in-this-chapter,-shall-be-guilty-of-a-simple-mis-~~
45 ~~demeanor.--Each-day-that-any-violation-continues-shall~~
46 ~~constitute-a-separate-offense.--Any-person-violating~~
47 ~~the-provisions-of-this-chapter-may-be-restrained-by~~
48 ~~an-injunction-~~

49 1. A person who knowingly submits false information
50 to or knowingly withholds information from the

1 commission or any of its employees when required to
2 be submitted or maintained under this chapter, commits
3 a fraudulent practice.

4 2. A person who engages in business as a grain
5 dealer without obtaining a license, or who refuses
6 to permit inspection of licensed premises, or books,
7 accounts, records, or other documents required by
8 this chapter, or who uses a scale ticket, or credit-
9 sale contract that fails to satisfy requirements
10 established by the commission commits a serious
11 misdemeanor, except that a person who commits any
12 of these offenses after having been found guilty of
13 the same offense commits an aggravated misdemeanor.

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

19 4. A violation of this chapter, or a violation
20 of chapter 714 or 715 involving the business of a
21 grain dealer, may be restrained by an injunction in
22 an action brought by the commerce commission.

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

25 NEW SECTION. CREDIT-SALE CONTRACTS.

26 1. A grain dealer shall not purchase grain by
27 a credit-sale contract except as provided in this
28 section.

29 2. A grain dealer shall give written notice to
30 the commission prior to engaging in the purchase of
31 grain by credit-sale contracts. Notice shall be on
32 forms provided by the commission. The notice shall
33 contain information required by the commission.

34 3. All credit-sale contract forms in the possession
35 of a grain dealer shall be permanently and
36 consecutively numbered at the time of printing of
37 the forms. A grain dealer shall maintain an accurate
38 record of all credit-sale contract forms and numbers
39 obtained by that dealer. The record shall include
40 the disposition of each numbered form, whether by
41 execution, destruction, or otherwise.

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

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

- 49 a. The seller's name and address.
50 b. The conditions of delivery.

- 1 c. The amount and kind of grain delivered.
- 2 d. The price per bushel or basis of value.
- 3 e. The date payment is to be made.
- 4 f. The duration of the credit-sale contract, which
- 5 shall not exceed twelve months from the date the
- 6 contract is executed.
- 7 6. Title to all grain sold by a credit-sale
- 8 contract is in the purchasing dealer as of the time
- 9 the contract is executed, unless the contract provides
- 10 otherwise. The contract must be signed by both parties
- 11 and executed in duplicate. One copy shall be retained
- 12 by the grain dealer and one copy shall be delivered
- 13 to the seller. Upon revocation, termination, or
- 14 cancellation of a grain dealer license, the payment
- 15 date for all credit-sale contracts shall be advanced
- 16 to a date not later than thirty days after the
- 17 effective date of the revocation, termination, or
- 18 cancellation, and the purchase price for all unpriced
- 19 grain shall be determined as of the effective date
- 20 of revocation, termination, or cancellation in
- 21 accordance with all other provisions of the contract.
- 22 However, if the business of the grain dealer is sold
- 23 to another licensed grain dealer, credit-sale contracts
- 24 may be assigned to the purchaser of the business.

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

27 NEW SECTION. CONFIDENTIALITY OF RECORDS.
28 Notwithstanding chapter 68A, all financial statements
29 of grain dealers under this chapter shall be kept
30 confidential by the commission and its agents and
31 employees and are not subject to disclosure except
32 as follows:

- 33 1. Upon waiver by the licensee.
- 34 2. In actions or administrative proceedings
- 35 commenced under this chapter or chapter 543.
- 36 3. When required by subpoena or court order.
- 37 4. Disclosure to law enforcement agencies in
- 38 regard to the detection and prosecution of public
- 39 offenses.
- 40 5. When released to a bonding company approved
- 41 by the commission, or released to the United States
- 42 department of agriculture or any of its divisions.

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

45 NEW SECTION. STANDARDIZATION OF RECORDS AND
46 DOCUMENTS.

- 47 1. The commission may adopt rules specifying the
- 48 form and content of scale tickets, and credit-sale
- 49 contracts. The commission may prescribe a uniform
- 50 numbering system to be used in this state for the

H-3927
Page Seven

1 purpose of identifying scale tickets and contracts
2 executed or issued by the respective grain dealers.
3 Rules establishing this uniform numbering system may
4 require registration with and approval by the
5 commission of all numbers to be used by the respective
6 licensees, and may include other requirements as
7 necessary to assure the security of the uniform
8 numbering system and the enforcement of this chapter.

9 2. A licensed grain dealer shall keep complete
10 and accurate records of all grain transactions.
11 Records for the previous six years shall be made
12 available for inspection by the commission.

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

15 NEW SECTION. SHRINKAGE ADJUSTMENTS--DISCLOSURES--
16 -PENALTIES.

17 1. A person who, in connection with the receipt
18 of corn or soybeans for storage, processing, or sale,
19 adjusts the scale weight of the grain to compensate
20 for the moisture content of the grain shall compute
21 the amount of the adjustment by multiplying the scale
22 weight of the grain by that factor which results in
23 a rate of adjustment of one and eighteen hundredths
24 percent of weight per one percent of moisture content.
25 The use of any rate of weight adjustment for moisture
26 content other than the one prescribed by this
27 subsection is a fraudulent practice. The person shall
28 post on the business premises in a conspicuous place
29 notice of the rate of adjustment for moisture content
30 that is prescribed by this subsection. Failure to
31 make this disclosure is a simple misdemeanor.

32 2. A person who, in connection with the receipt
33 of grain for storage, processing or sale, adjusts
34 the quantity of the grain received to compensate for
35 losses to be incurred during the handling, processing,
36 or storage of the grain shall post on the business
37 premises in a conspicuous place notice of the rate
38 of adjustment to be made for this shrinkage. Failure
39 to make the required disclosure is a simple
40 misdemeanor.

41 3. A person who adjusts the scale weight of corn
42 or soybeans both for moisture content and for handling,
43 processing, or storage losses may combine the two
44 adjustment factors into a single factor and may use
45 this resulting factor to compute the amount of weight
46 adjustment in connection with storage, processing,
47 or sale transactions, provided that the person shall
48 post on the business premises in a conspicuous place
49 a notice that discloses the moisture shrinkage factor
50 prescribed by subsection 1, the handling shrinkage

1 factor to be imposed, and the single factor that
2 results from combining these factors. Failure to
3 make the required disclosure is a simple misdemeanor.

4 Sec. 14. Section 543.1, Code 1981, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. "Credit-sale contract" means a
7 contract for the sale of grain pursuant to which the
8 sale price is to be paid at a date subsequent to the
9 delivery of the grain to the buyer, and includes but
10 is not limited to those contracts commonly referred
11 to as deferred-payment contracts, deferred-pricing
12 contracts, and price-later contracts.

13 Sec. 15. Section 543.2, Code 1981, is amended
14 to read as follows:

15 543.2 DUTIES AND POWERS OF THE COMMISSION. The
16 commission ~~is authorized to~~ may exercise general
17 supervision over the storage, warehousing, classifying
18 according to grade or otherwise, weighing, and
19 certification of agricultural products. The commission
20 may inspect or cause to be inspected any warehouse
21 ~~and.~~ Inspections may be made at times and for purposes
22 as the commission determines. The commission shall
23 cause every licensed warehouse and its contents to
24 be inspected at least twice in every twelve-month
25 period, provided that if a warehouseman submits the
26 audited financial statement under section 543.6,
27 subsection 4, paragraph b, the commission shall cause
28 the warehouse to be inspected at least once in every
29 twelve-month period. The commission may require the
30 filing of reports ~~describing any~~ relating to a
31 warehouse or the ~~its~~ operation ~~thereof~~. If upon any
32 such inspection a deficiency is found to exist as
33 to the quantity or quality of agricultural products
34 stored, as indicated on the warehouseman's books and
35 records according to official grain standards, the
36 commission ~~shall have the authority to, and~~ may require
37 an employee of the commission to remain at the licensed
38 warehouse and supervise all operations ~~conducted~~
39 ~~thereat~~ involving agricultural products stored there
40 ~~under the provisions of~~ this chapter until the
41 deficiency is corrected. The ~~commission shall inspect~~
42 ~~or cause to be inspected every licensed warehouse~~
43 ~~and the contents thereof not less than once every~~
44 ~~six months and the commission shall have authority~~
45 to may make available to the United States government,
46 or any of its agencies, including the Commodity Credit
47 Corporation, the results of inspections made and
48 inspection reports submitted to it by employees of
49 the commission, upon payment to it of such charges
50 as ~~may be~~ determined by the commission, but ~~in no~~

1 ~~event-shall-sueh~~ the charges shall not be less than
2 the actual cost of ~~sueh~~ services rendered ~~in-regard~~
3 ~~thereto~~, as determined by the commission. The
4 ~~commission shall-have-authority-to~~ may enter into
5 contracts and agreements for such purpose and shall
6 keep a record of all money thus received. All such
7 money shall be paid over to the treasurer of state
8 as miscellaneous receipts. The commission may classify
9 any warehouse in accordance with its suitability for
10 the storage of agricultural products and shall specify
11 in any license issued for the operation of any
12 warehouse the type or types and the quantity of
13 agricultural products which may be exclusively stored
14 in ~~sueh~~ warehouse. The commission may prescribe,
15 within the limitations of this chapter, the duties
16 of licensed warehousemen with respect to the care
17 of and responsibility for the contents of licensed
18 warehouses. Grain grades shall be determined under
19 the official grain standards. The commission may
20 from time to time publish ~~sueh~~ data in connection
21 with the administration of this chapter as may be
22 of public interest. The commission shall ~~have-the~~
23 ~~duty-of-administration-of-the-further-provisions-of~~
24 administer this chapter.

25 Sec. 16. Section 543.6, Code 1981, is amended
26 to read as follows:

27 543.6 ISSUANCE OF LICENSE AND FINANCIAL
28 RESPONSIBILITY.

29 1. The commission is authorized, upon application
30 to it, to issue to any warehouseman or to any person
31 about to become a warehouseman a license or licenses
32 for the operation of a warehouse or warehouses in
33 accordance with the provisions of this chapter and
34 such rules as may be made by the commission under
35 the authority of section 543.5. ~~A-single-license~~
36 ~~may-be-issued-for-the-operation-of-two-or-more~~
37 ~~warehouses-located-in-the-same-city-and-operated-by~~
38 ~~the-same-warehouseman.~~ A single license to operate
39 two or more warehouses located within a twenty-five
40 mile radius of a central office may be issued, ~~but~~
41 ~~a-separate-fee-shall-be-charged-for-each-station.~~

42 2. The type of license required shall be determined
43 as follows:

44 a. A class 1 license is required if the storage
45 capacity of a warehouse is more than one hundred
46 thousand bushels.

47 b. A class 2 license is required for a warehouse
48 that is not required to have a class 1 license.

49 3. An application for a warehouse license shall
50 be accompanied by a complete financial statement of

1 the applicant setting forth the assets, liabilities
2 and net worth of the applicant. The financial
3 statement must be prepared according to normally
4 accepted accounting principles. Assets shall be shown
5 at original cost less depreciation. Upon ~~petition~~
6 ~~being-filed-with-the-commission~~ written request, the
7 commission or a designated employee may allow asset
8 valuations in accordance with a competent appraisal.
9 ~~Deferred-pricing~~ Unpriced contracts shall be shown
10 as a liability and valued at the applicable current
11 market price of grain as of the date the financial
12 statement is prepared.

13 4. In order to receive and retain a class 1
14 license, the applicant must have and maintain a net
15 worth of at least twenty-five thousand dollars or
16 provide bond in addition to that required by section
17 543.12 in the amount of two thousand dollars for each
18 one thousand dollars or fraction thereof of net worth
19 deficiency following conditions must be satisfied:

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

30 b. The warehouseman shall submit, as required
31 by the commission, a financial statement that is
32 accompanied by an unqualified opinion based upon an
33 audit performed by a certified public accountant
34 licensed in this state. However, the commission
35 may accept a qualification in an opinion that is
36 unavoidable by any audit procedure that is permitted
37 under generally accepted accounting principles. An
38 opinion that is qualified because of a limited audit
39 procedure or because the scope of an audit is limited
40 shall not be accepted by the commission. The
41 warehouseman may elect, however, to submit a financial
42 statement satisfying the requirements of subsection
43 5, paragraph b, in lieu of the audited financial
44 statement specified in this paragraph, and if a
45 warehouseman makes this election the commission shall
46 cause the warehouseman to be inspected twice during
47 each twelve-month period in the manner provided in
48 section 543.2.

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

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

11 b. The warehouseman shall submit, as required
12 by the commission, a financial statement that is
13 accompanied by the report of a certified public
14 accountant licensed in this state that is based upon
15 a review performed by the certified public accountant.

16 6. The commission may adopt rules governing the
17 timing and form of financial statements to be submitted
18 to it. The commission may require additional
19 information or verification with respect to the
20 financial resources of the applicant or licensee and
21 the applicant's or licensee's ability to maintain
22 the quantity and quality of stored grain.

23 7. If an applicant has had a license under chapter
24 542, 542A, or 543 revoked for cause within the past
25 three years, or has been convicted of a felony
26 involving violations of chapter 542, 542A, or 543,
27 or is owned or controlled by a person who has had
28 a license so revoked or who has been so convicted,
29 the commission may deny a license to the applicant.

30 Sec. 17. Section 543.8, Code 1981, is amended
31 to read as follows:

32 543.8 LICENSE TO SPECIFY TYPE AND QUANTITY OF
33 PRODUCTS WHICH MAY BE STORED. The commission shall
34 determine with respect to each application for a
35 license whether the warehouse or warehouses described
36 in the application is or are suitable for the proper
37 and safe storage of the particular agricultural product
38 or products intended to be stored therein in the
39 quantities specified in the application, provided
40 that no warehouse shall be found to be suitable and
41 safe for the storage of bulk grain unless such
42 warehouse is equipped with a fixed or portable
43 mechanical device of a type in common use as an adjunct
44 to the movement of bulk grain. Each license issued
45 for the operation of a single warehouse shall specify
46 the type or types and quantities of agricultural
47 products which may be stored in such warehouse. Each
48 license issued to a warehouseman for the operation
49 of two or more warehouses ~~in-the-same-city~~ shall
50 specify with respect to each warehouse the type or

1 types and quantities of agricultural product which
2 may be stored in such warehouse. It shall be unlawful
3 for any licensed warehouseman to accept for storage
4 or to store in any licensed warehouse any agricultural
5 product or products other than the type or types and
6 quantities specified in the license for the operation
7 of such warehouse.

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

10 543.36 PENALTIES--MISDEMEANOR INJUNCTION. Every
11 ~~person who violates or fails to comply with any of~~
12 ~~the provisions of this chapter or to comply with any~~
13 ~~lawfully authorized order, direction, demand, or rule~~
14 ~~or regulation of the commission shall be guilty of~~
15 ~~a simple misdemeanor.~~

16 1. A person who knowingly withholds information
17 from or knowingly submits false information to the
18 commission or any of its employees in a document or
19 a book, account, or record required to be submitted
20 or maintained under this chapter commits a fraudulent
21 practice.

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

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

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

41 Sec. 19. Section 543.37, Code 1981, is amended
42 to read as follows:

43 543.37 FAILURE TO PAY FEE. Failure to pay the
44 annual fee provided for in section 543.33 on or before
45 ~~the date the same shall become due~~ June 30 of the
46 ~~year for which due~~ shall cause a license to terminate.
47 ~~The annual fee shall become due on June 30 each year.~~
48 A warehouse license which has terminated may be
49 reinstated by the commission upon receipt of a proper
50 renewal application, ~~current financial statement,~~

1 the renewal fee, and a penalty fee in the amount of
2 ~~ten twenty-five~~ dollars from the warehouse, if such
3 ~~are~~ filed within thirty days from the date of
4 termination of the warehouse license. The commission
5 may cancel the license upon request of the licensee
6 unless a complaint or information is filed against
7 the licensee alleging a violation of a provision of
8 this chapter.

9 Sec. 20. Chapter 543, Code 1981, is amended by
10 adding the following new section:

11 NEW SECTION. WAREHOUSEMAN'S OBLIGATION. A
12 warehouseman shall maintain at all times sufficient
13 quantity and quality of grain or other agricultural
14 products to cover the warehouseman's obligation.
15 A warehouseman shall not at any time have less grain
16 or other agricultural products in the warehouse than
17 the obligations to depositors.

18 Sec. 21. Chapter 543, Code 1981, is amended by
19 adding the following new section:

20 NEW SECTION. CONFIDENTIALITY OF RECORDS.
21 Notwithstanding the provisions of chapter 68A, all
22 financial statements of warehousemen under this chapter
23 shall be kept confidential by the commission and its
24 agents and employees and are not subject to disclosure
25 except as follows:

- 26 1. Upon waiver by the licensee.
- 27 2. In actions or administrative proceedings
28 commenced under this chapter or chapter 542.
- 29 3. When required by subpoena or other court orders.
- 30 4. Disclosure to law enforcement agencies in
31 regards to the detection and prosecution of public
32 offenses.

33 5. Where released to a bonding company approved
34 by the commission or to the United States department
35 of agriculture or any of their divisions.

36 Sec. 22. Chapter 543, Code 1981, is amended by
37 adding the following new section:

38 NEW SECTION. SHRINKAGE ADJUSTMENTS--DISCLOSURES--
39 -PENALTIES.

40 1. A person who, in connection with the receipt
41 of corn or soybeans for storage, processing, or sale,
42 adjusts the scale weight of the grain to compensate
43 for the moisture content of the grain shall compute
44 the amount of the adjustment by multiplying the scale
45 weight of the grain by that factor which results in
46 a rate of adjustment of one and eighteen hundredths
47 percent of weight per one percent of moisture content.
48 The use of any rate of weight adjustment for moisture
49 content other than the one prescribed by this
subsubsection is a fraudulent practice. The person shall

May 1, 1981

H-3927

Page Fourteen

1 post on the business premises in a conspicuous place
2 notice of the rate of adjustment for moisture content
3 that is prescribed by this subsection. Failure to
4 make this disclosure is a simple misdemeanor.

5 2. A person who, in connection with the receipt
6 of grain for storage, processing or sale, adjusts
7 the quantity of the grain received to compensate for
8 losses to be incurred during the handling, processing,
9 or storage of the grain shall post on the business
10 premises in a conspicuous place notice of the rate
11 of adjustment to be made for this shrinkage. Failure
12 to make the required disclosure is a simple
13 misdemeanor.

14 3. A person who adjusts the scale weight of corn
15 or soybeans both for moisture content and for handling,
16 processing, or storage losses may combine the two
17 adjustment factors into a single factor and may use
18 this resulting factor to compute the amount of weight
19 adjustment in connection with storage, processing,
20 or sale transactions, provided that the person shall
21 post on the business premises in a conspicuous place
22 a notice that discloses the moisture shrinkage factor
23 prescribed by subsection 1, the handling shrinkage
24 factor to be imposed, and the single factor that
25 results from combining these factors. Failure to
26 make the required disclosure is a simple misdemeanor."

H-3927 FILED APRIL 30, 1981

BY SCHROEDER of Pottawattamie

Adopted or amended by 3937

5/4/81 (p. 1610)

Revisions to Wisconsin (p. 1626)

" placed out of order 5/5/81 (p. 1658)

HOUSE FILE 841

H-3937

1 Amend the Schroeder amendment, H-3927 to House
2 File 841 as follows:

3 1. By striking everything after page 1, line 3
4 and inserting in lieu thereof the following:

5 "Section 1. Section 542.1, subsection 3, Code
6 1981, is amended to read as follows:

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

24 Sec. 2. Section 542.1, subsection 4, Code 1981,
25 is amended by striking the subsection and inserting
26 in lieu thereof the following:

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

31 Sec. 3. Section 542.1, Code 1981, is amended by
32 adding the following new subsection:

33 NEW SUBSECTION. "Credit-sale contract" means a
34 contract for the sale of grain pursuant to which the
35 sale price is to be paid at a date subsequent to the
36 delivery of the grain to the buyer, and includes but
37 is not limited to those contracts commonly referred
38 to as deferred payment contracts, deferred pricing
39 contracts, and price-later contracts.

40 Sec. 4. Section 542.3, Code 1981, is amended to
41 read as follows:

42 542.3 LICENSE REQUIRED--FINANCIAL RESPONSIBILITY.

43 1. A person shall not engage in the business of
44 a grain dealer in this state without having obtained
45 a license issued by the commission.

46 2. The type of license required shall be determined
47 as follows:

48 a. A class 1 license is required if the grain
49 dealer purchases any grain by credit-sale contract,
50 or if the value of grain purchased by the grain dealer

1 from producers during the grain dealer's previous
2 fiscal year exceeds two hundred fifty thousand dollars.
3 Any other grain dealer may elect to be licensed as
4 a class 1 grain dealer.

5 b. A class 2 license is required for any grain
6 dealer not holding a class 1 license. A class 2
7 licensee whose purchases from producers during a
8 fiscal year exceed two hundred fifty thousand dollars
9 in value shall apply immediately for a class 1 license.
10 If a class 1 license is denied, the person immediately
11 shall cease doing business as a grain dealer.

12 3. Each An application for a license to engage
13 in business as a grain dealer shall be filed with
14 the commission and shall be in a form prescribed by
15 the commission. The application shall include the
16 name of the applicant, its principal officers if the
17 applicant is a corporation or the active members of
18 a partnership if the applicant is a partnership and
19 the location of the principal office or place of
20 business of the applicant. A separate license shall
21 be required for each location at which the records
22 are normally-kept maintained for transactions of the
23 grain dealer. The application shall also list the
24 number of trucks or tractor trailer units that will
25 be used in the transportation of grain purchased for
26 resale under this chapter. The application shall
27 be accompanied by a complete financial statement of
28 the applicant setting forth the assets, liabilities
29 and the net worth of the applicant. The financial
30 statement must be prepared according to generally
31 accepted accounting principles. Assets shall be shown
32 at original cost less depreciation. Upon a petition
33 written request filed with the commission, the
34 commission or a designated employee may allow asset
35 valuations in accordance with a competent appraisal.
36 Deferred-pricing Unpriced contracts shall be shown
37 as a liability and valued at the applicable current
38 market price of grain as of the date the financial
39 statement is prepared.

40 4. In order to receive and retain a class 1 license
41 the applicant-must-have-and-maintain-a-net-worth-of
42 at-least-twenty-five-thousand-dollars-or-provide-bond
43 in-addition-to-that-required-by-section-542.4-in-the
44 amount-of-two-thousand-dollars-for-each-one-thousand
45 dollars-or-fraction-thereof-of-net-worth-deficiency
46 following conditions must be satisfied:

47 a. The grain dealer shall have and maintain a
48 net worth of at least fifty thousand dollars, or
49 maintain a bond in the amount of two thousand dollars
50 for each one thousand dollars or fraction thereof

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

7 b. The grain dealer shall submit, as required
8 by the commission, a financial statement that is
9 accompanied by an unqualified opinion based upon an
10 audit performed by a certified public accountant
11 licensed in this state. However, the commission may
12 accept a qualification in an opinion that is
13 unavoidable by any audit procedure that is permitted
14 under generally accepted accounting principles. An
15 opinion that is qualified because of a limited audit
16 procedure or because the scope of an audit is limited
17 shall not be accepted by the commission. The grain
18 dealer may elect, however, to submit a financial
19 statement satisfying the requirements of subsection
20 5, paragraph b, in lieu of the audited financial
21 statement specified in this paragraph, and if a grain
22 dealer makes this election the commission shall cause
23 the grain dealer to be inspected twice during each
24 twelve-month period in the manner provided in section
25 542.9.

26 c. The grain dealer shall have and maintain current
27 assets equal to at least ninety percent of current
28 liabilities or provide bond in the amount of two
29 thousand dollars for each one thousand dollars or
30 fraction thereof of current assets lacking to meet
31 this minimum. A bond submitted for purposes of this
32 paragraph shall be in addition to any bond otherwise
33 permitted or required under this chapter.

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

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

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

1 c. The grain dealer shall have and maintain current
2 assets equal to at least ninety percent of current
3 liabilities or provide bond in the amount of two
4 thousand dollars for each one thousand dollars or
5 fraction thereof of current assets lacking to meet
6 this minimum. A bond submitted for purposes of this
7 paragraph shall be in addition to any bond otherwise
8 permitted or required under this chapter.

9 6. The commission shall adopt rules relating to
10 the form and time of filing of financial statements.
11 The commission may require additional information
12 or verification with respect to the financial resources
13 of the applicant and the applicant's ability to pay
14 producers for grain purchased from them.

15 Sec. 5. Section 542.4, Code 1981, is amended to
16 read as follows:

17 542.4 BOND REQUIRED. Any person applying An
18 applicant for a license to operate as a grain dealer
19 in accordance with this chapter shall, as a condition
20 to the granting of the license, file with the
21 commission a bond payable to the state of Iowa with
22 a corporate surety approved by the commission in a
23 penal sum of twenty-five thousand dollars per license
24 conditioned that the applicant will pay the purchase
25 price of any grain to the seller, and that the grain
26 dealer owns or controls, free of liens, any grain
27 which he or she offers for sale producer; provided
28 that the aggregate liability of the surety to such
29 persons shall in no event exceed the sum of such bond.
30 The bond for each class 1 license shall be in the
31 penal sum of fifty thousand dollars. The bond for
32 each class 2 license shall be in the penal sum of
33 twenty-five thousand dollars. One bond, cumulative
34 as to minimum requirements, shall be required where
35 a person has multiple licenses more than one license,
36 but in no event shall the total amount of bond required
37 by this section exceed one hundred thousand dollars
38 three hundred thousand dollars for a class 1 licensee,
39 or one hundred fifty thousand dollars for a class
40 2 licensee. No bond shall be canceled by a surety
41 before at least sixty days' notice by certified mail
42 to the commission and the grain dealer. The liability
43 of the surety shall cover all purchases and
44 transactions made by the grain dealer during the time
45 the bond is in force. A grain dealer's bond filed
46 with this commission shall be in continuous force
47 until canceled by the surety. The liability of the
48 surety on any bond required by the provisions of this
49 chapter shall not accumulate for each successive
50 license period during which the bond is in force.

1 Sec. 6. Section 542.5, Code 1981, is amended to
2 read as follows:

3 542.5 LICENSE. Upon the filing of the application
4 and compliance with the terms and conditions of this
5 chapter and rules of the commission, the commission
6 shall issue a license to the applicant. The license
7 shall terminate on the thirtieth of June of each year.
8 A grain dealer's license may be renewed annually by
9 the filing of a renewal fee, ~~a current financial~~
10 ~~statement~~ and a renewal application on a form
11 prescribed by the commission. An application for
12 renewal shall be received by the commission before
13 the thirtieth of June. A grain dealer license which
14 has terminated may be reinstated by the commission
15 upon receipt of a proper renewal application, ~~a current~~
16 ~~financial statement~~, the renewal fee, and penalty
17 fee in the amount of ten fifty dollars from the grain
18 dealer, provided that such materials are filed within
19 thirty days from the date of termination of the grain
20 dealer license. The commission may cancel a license
21 upon request of the licensee unless a complaint or
22 information is filed against the licensee alleging
23 a violation of a provision of this chapter.

24 If an applicant has had a license under chapter
25 542, 542A, or 543 revoked for cause within the past
26 three years, or has been convicted of a felony
27 involving violations of chapter 542, 542A, or 543,
28 or is owned or controlled by a person who has had
29 a license so revoked or who has been so convicted,
30 the commission may deny a license to the applicant.

31 Sec. 7. Section 542.6, Code 1981, is amended to
32 read as follows:

33 542.6 FEES. The commission shall collect fees
34 ~~as follows~~ the following fees, for deposit in the
35 general fund:

36 1. For the issuance or renewal of a license,
37 twenty-five dollars per year or fraction of a year
38 two hundred dollars per year for a class 1 license,
39 and eighty-five dollars per year for a class 2 license.
40 The commission shall prorate the annual fee on a
41 monthly basis for licenses issued for less than a
42 full year.

43 2. ~~For renewal of license, twenty-five dollars~~
44 ~~per year.~~ For the inspection of a class 1 grain
45 dealer, one hundred fifty dollars, but if the class
46 1 grain dealer is subject to a second inspection
47 during any twelve-month period pursuant to section
48 542.3, subsection 4, paragraph b, the fee for the
49 second inspection shall be seventy-five dollars; and
50 for the inspection of a class 2 grain dealer, sixty-

1 five dollars.

2 3. An annual registration fee, ~~to be determined~~
3 ~~by the commission,~~ of ~~not less than five dollars nor~~
4 ~~more than ten~~ fifteen dollars for each vehicle used
5 by the license holder in the transporting of grain
6 purchased under this chapter.

7 4. A fee of ~~one dollar will be charged~~ ten dollars
8 for issuance of each duplicate replacement
9 identification plate to be used on any vehicle.

10 5. ~~All fees collected by the commission under~~
11 ~~this chapter shall be deposited in the general fund~~
12 ~~of the state.~~

13 Sec. 8. Section 542.7, Code 1981, is amended to
14 read as follows:

15 542.7 POSTING OF LICENSE AND REGISTRATION. The
16 grain dealer's license shall be posted in a conspicuous
17 place location in the place of business. Each vehicle
18 used by a license holder shall be registered with
19 the commission and equipped with a special dealer or
20 other registration identification plate as prescribed
21 by the commission so that the dealer plate will be
22 readily visible. A grain dealer's license is not
23 transferable. The registration identification plate
24 shall not be transferred from one vehicle to another,
25 except in case of destruction or other disposition
26 of the vehicle previously bearing the identification.
27 All transfers must first be approved by the commission.
28 If a registration an identification plate for a vehicle
29 becomes defaced or destroyed, a duplicate shall be
30 obtained the licensee shall request a replacement
31 from the commission, which shall be issued upon request
32 and payment of the fee.

33 Sec. 9. Section 542.8, Code 1981, is amended to
34 read as follows:

35 542.8 PAYMENT. A person licensed as a grain
36 dealer shall pay the purchase price to the owner or
37 his or her agent for grain upon delivery or demand
38 of the owner or agent, but not later than thirty days
39 after delivery by the owner or agent unless in
40 accordance with the terms of a duly executed deferred
41 payment or deferred pricing contract credit sale
42 contract that satisfies the requirements of this
43 chapter. The contract in addition to such other
44 information as may be required shall contain the
45 following:

- 46 1. ~~The seller's name and address.~~
- 47 2. ~~The conditions of delivery.~~
- 48 3. ~~The amount and kind of grain delivered.~~
- 49 4. ~~The price per bushel or basis of value.~~
- 50 5. ~~The date payment is to be made.~~

1 The contract must be numbered and signed by both
2 parties and executed in duplicate. One copy shall
3 be retained by the grain dealer and one copy shall
4 be delivered to the seller. Upon revocation,
5 termination, or cancellation of a grain dealer license,
6 the payment date for all deferred payment or deferred
7 pricing contracts shall be advanced to a date not
8 later than thirty days after the effective date of
9 such revocation, termination or cancellation and the
10 purchase price for all unpriced grain shall be
11 determined as of the effective dates of revocation,
12 termination or cancellation in accordance with all
13 other provisions of the contract. However, if the
14 business of the grain dealer is sold to another
15 licensed grain dealer, deferred payment or deferred
16 pricing contracts may be assigned to the purchaser
17 of the business. As used in this section, delivery
18 "delivery" means the transfer of title to and
19 possession of grain by the seller to the grain dealer
20 or to another person in accordance with the agreement
21 of the seller and the grain dealer. As used in this
22 section, payment; and "payment" means the actual
23 payment or tender of payment by the grain dealer to
24 the seller of the agreed purchase price, or in the
25 case of disputes as to sales of grain, the undisputed
26 portion of the purchase price without reduction for
27 any separate claim of the grain dealer against the
28 seller.

29 Sec. 10. Section 542.9, Code 1981, is amended
30 to read as follows:

31 542.9 INSPECTION OF PREMISES, BOOKS AND RECORDS.
32 The commission may inspect the premises used by any
33 grain dealer in the conduct of his or her business
34 at any time. The, and the books, accounts, records
35 and papers of every such grain dealer which pertain
36 to grain purchases shall be subject to inspection
37 by the commission during ordinary business hours.
38 The commission shall cause the business premises and
39 books, accounts, records and papers of every grain
40 dealer to be inspected once during each twelve-month
41 period, provided that if a class 1 grain dealer elects
42 to submit the unaudited financial statement under
43 section 542.3, subsection 4, paragraph b, the
44 commission shall cause the grain dealer to be inspected
45 twice during each twelve-month period. The transporter
46 of grain in transit shall have in his or her possession
47 bills of lading or other documents covering such the
48 grain in transit and such documents shall be available
49 for inspection by the commission upon request in his
50 or her possession, and shall present them to any law

1 enforcement officer or to a person designated as an
2 enforcement officer under section 542.13 on demand.
3 ~~Any grain dealer licensed in this state who does not~~
4 ~~have a place of business within the state upon the~~
5 ~~request of the commission shall make available and~~
6 ~~furnish to the commission at any reasonable time and~~
7 ~~place the commission may set all such books, accounts,~~
8 ~~records and papers of grain transactions within this~~
9 ~~state. Where there is good cause to believe that~~
10 ~~a person is engaged without a license in the business~~
11 ~~of a grain dealer in this state, the commission may~~
12 ~~inspect the books, papers, and records of such the~~
13 ~~person which pertain to grain purchases.~~

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

25 Sec. 11. Section 542.11, Code 1981, is amended
26 to read as follows:

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

38 1. A person who knowingly submits false information
39 to or knowingly withholds information from the
40 commission or any of its employees when required to
41 be submitted or maintained under this chapter, commits
42 a fraudulent practice.

43 2. A person who engages in business as a grain
44 dealer without obtaining a license, or who refuses
45 to permit inspection of licensed premises, or books,
46 accounts, records, or other documents required by
47 this chapter, or who uses a scale ticket, or credit-
48 sale contract that fails to satisfy requirements
49 established by the commission commits a serious
50 misdeemeanor, except that a person who commits any

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

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

8 4. A violation of this chapter, or a violation
9 of chapter 714 or 715 involving the business of a
10 grain dealer, may be restrained by an injunction in
11 an action brought by the commerce commission.

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

14 NEW SECTION. CREDIT-SALE CONTRACTS.

15 1. A grain dealer shall not purchase grain by
16 a credit-sale contract except as provided in this
17 section.

18 2. A grain dealer shall give written notice to
19 the commission prior to engaging in the purchase of
20 grain by credit-sale contracts. Notice shall be on
21 forms provided by the commission. The notice shall
22 contain information required by the commission.

23 3. All credit-sale contract forms in the possession
24 of a grain dealer shall have been permanently and
25 consecutively numbered at the time of printing of
26 the forms. A grain dealer shall maintain an accurate
27 record of all credit-sale contract forms and numbers
28 obtained by that dealer. The record shall include
29 the disposition of each numbered form, whether by
30 execution, destruction, or otherwise.

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

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

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

46 6. Title to all grain sold by a credit-sale
47 contract is in the purchasing dealer as of the time
48 the contract is executed, unless the contract provides
49 otherwise. The contract must be signed by both parties
50 and executed in duplicate. One copy shall be retained

1 by the grain dealer and one copy shall be delivered
2 to the seller. Upon revocation, termination, or
3 cancellation of a grain dealer license, the payment
4 date for all credit-sale contracts shall be advanced
5 to a date not later than thirty days after the
6 effective date of the revocation, termination, or
7 cancellation, and the purchase price for all unpriced
8 grain shall be determined as of the effective date
9 of revocation, termination, or cancellation in
10 accordance with all other provisions of the contract.
11 However, if the business of the grain dealer is sold
12 to another licensed grain dealer, credit-sale contracts
13 may be assigned to the purchaser of the business.

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

16 NEW SECTION. CONFIDENTIALITY OF RECORDS.

17 Notwithstanding chapter 68A, all financial statements
18 of grain dealers under this chapter shall be kept
19 confidential by the commission and its agents and
20 employees and are not subject to disclosure except
21 as follows:

- 22 1. Upon waiver by the licensee.
- 23 2. In actions or administrative proceedings
24 commenced under this chapter or chapter 543.
- 25 3. When required by subpoena or court order.
- 26 4. Disclosure to law enforcement agencies in
27 regard to the detection and prosecution of public
28 offenses.
- 29 5. When released to a bonding company approved
30 by the commission, or released to the United States
31 department of agriculture or any of its divisions.

32 Sec. 14. Chapter 542, Code 1981, is amended by
33 adding the following new section:

34 NEW SECTION. STANDARDIZATION OF RECORDS AND
35 DOCUMENTS.

36 1. The commission may adopt rules specifying the
37 form, content and use of scale tickets, and credit-
38 sale contracts. All scale ticket forms in the
39 possession of a grain dealer shall have been
40 permanently and consecutively numbered at the time
41 of printing. A grain dealer shall maintain an accurate
42 record of all scale ticket numbers. The record shall
43 include the disposition of each numbered form, whether
44 issued, destroyed, or otherwise disposed of.

45 2. A licensed grain dealer shall keep complete
46 and accurate records of all grain transactions.
47 Records for the previous six years shall be made
48 available for inspection by the commission.

49 Sec. 15. Chapter 542, Code 1981, is amended by
50 adding the following new section:

1 NEW SECTION. BONDED GRAIN SELLERS.

2 1. A person may apply to the commission for a
3 license to operate as a bonded grain seller. The
4 application shall be on a form prescribed by the
5 commission.

6 2. As a condition of the granting of a license
7 under this section, the applicant shall file with
8 the commission a bond payable to the state of Iowa
9 with a corporate surety approved by the commission
10 in a penal sum of twenty-five thousand dollars per
11 license, conditioned that the grain seller owns or
12 controls, free of liens, any grain offered for sale.
13 Cancellation of bonds by a surety under this section
14 shall meet the requirements of section 542.4. The
15 liability of a surety on any bond under this section
16 shall not accumulate for each successive license
17 period during which the bond is in force.

18 3. The fee for a bonded grain seller's license
19 shall be two hundred dollars per year. All licenses
20 shall terminate on the thirtieth of June of each year.
21 There shall be no financial or net worth requirements
22 for bonded grain sellers. License fees for new
23 licenses may be prorated by the commission on a monthly
24 basis.

25 4. This section does not require a person to be
26 licensed to sell grain.

27 Sec. 16. Chapter 542, Code 1981, is amended by
28 adding the following new section:

29 NEW SECTION. COOPERATIVE AGREEMENTS.

30 1. Notwithstanding the other provisions of this
31 chapter, the commission may enter into cooperative
32 agreements with other states for the purpose of making
33 available to those states the information acquired
34 under the bonding, licensing, and examination
35 procedures of this chapter.

36 2. If a cooperative agreement is in effect under
37 this section, the bonding requirements of this chapter
38 may be satisfied by:

39 a. Filing with the commission evidence of a bond
40 on file with a state with which Iowa has a cooperative
41 agreement as provided for by this section.

42 b. Such bond shall be copayable to the state of
43 Iowa for the benefit of sellers of grain under chapter
44 542 in Iowa.

45 c. The bond shall be in an amount at least equal
46 to the amounts required by this chapter; provided,
47 however, that any bond required under this chapter
48 for any financial deficiency shall be in addition
49 to the bond posted in any other state.

50 Any bond required by this chapter may be made

1 copayable to any state with whom this state has entered
2 into contracts or agreements as authorized by this
3 section, for the benefit of sellers of grain in that
4 state.

5 Sec. 17. Chapter 542, Code 1981, is amended by
6 adding the following new section:

7 NEW SECTION. SHRINKAGE ADJUSTMENTS--DISCLOSURES--
8 -PENALTIES.

9 1. A person who, in connection with the receipt
10 of corn or soybeans for storage, processing, or sale,
11 adjusts the scale weight of the grain to compensate
12 for the moisture content of the grain shall compute
13 the amount of the adjustment by multiplying the scale
14 weight of the grain by that factor which results in
15 a rate of adjustment of one and eighteen hundredths
16 percent of weight per one percent of moisture content.
17 The use of any rate of weight adjustment for moisture
18 content other than the one prescribed by this
19 subsection is a fraudulent practice. The person shall
20 post on the business premises in a conspicuous place
21 notice of the rate of adjustment for moisture content
22 that is prescribed by this subsection. Failure to
23 make this disclosure is a simple misdemeanor.

24 2. A person who, in connection with the receipt
25 of grain for storage, processing or sale, adjusts
26 the quantity of the grain received to compensate for
27 losses to be incurred during the handling, processing,
28 or storage of the grain shall post on the business
29 premises in a conspicuous place notice of the rate
30 of adjustment to be made for this shrinkage. Failure
31 to make the required disclosure is a simple
32 misdemeanor.

33 3. A person who adjusts the scale weight of corn
34 or soybeans both for moisture content and for handling,
35 processing, or storage losses may combine the two
36 adjustment factors into a single factor and may use
37 this resulting factor to compute the amount of weight
38 adjustment in connection with storage, processing,
39 or sale transactions, provided that the person shall
40 post on the business premises in a conspicuous place
41 a notice that discloses the moisture shrinkage factor
42 prescribed by subsection 1, the handling shrinkage
43 factor to be imposed, and the single factor that
44 results from combining these factors. Failure to
45 make the required disclosure is a simple misdemeanor.

46 Sec. 18. Section 543.1, Code 1981, is amended
47 by adding the following new subsection:

48 NEW SUBSECTION. "Credit-sale contract" means a
49 contract for the sale of grain pursuant to which the
50 sale price is to be paid at a date subsequent to the

1 delivery of the grain to the buyer, and includes but
2 is not limited to those contracts commonly referred
3 to as deferred-payment contracts, deferred-pricing
4 contracts, and price-later contracts.

5 Sec. 19. Section 543.2, Code 1981, is amended
6 to read as follows:

7 543.2 DUTIES AND POWERS OF THE COMMISSION. The
8 commission ~~is authorized to~~ may exercise general
9 supervision over the storage, warehousing, classifying
10 according to grade or otherwise, weighing, and
11 certification of agricultural products. The commission
12 may inspect or cause to be inspected any warehouse
13 and. Inspections may be made at times and for purposes
14 as the commission determines. The commission shall
15 cause every licensed warehouse and its contents to
16 be inspected once in every twelve-month period,
17 provided that if a class 1 warehouseman elects to
18 submit the unaudited financial statement under section
19 543.6, subsection 4, paragraph b, the commission shall
20 cause the warehouse to be inspected twice in every
21 twelve-month period. The commission may require the
22 filing of reports describing any relating to a
23 warehouse or the its operation thereof. If upon any
24 such inspection a deficiency is found to exist as
25 to the quantity or quality of agricultural products
26 stored, as indicated on the warehouseman's books and
27 records according to official grain standards, the
28 commission shall have the authority to, and may require
29 an employee of the commission to remain at the licensed
30 warehouse and supervise all operations conducted
31 thereat involving agricultural products stored there
32 under the provisions of this chapter until the
33 deficiency is corrected. The commission shall inspect
34 or cause to be inspected every licensed warehouse
35 and the contents thereof not less than once every
36 six months and the commission shall have authority
37 to may make available to the United States government,
38 or any of its agencies, including the Commodity Credit
39 Corporation, the results of inspections made and
40 inspection reports submitted to it by employees of
41 the commission, upon payment to it of such charges
42 as ~~may be~~ determined by the commission, but ~~in no~~
43 event shall such the charges shall not be less than
44 the actual cost of such services rendered ~~in regard~~
45 ~~thereto~~, as determined by the commission. The
46 ~~commission shall have authority to~~ may enter into
47 contracts and agreements for such purpose and shall
48 keep a record of all money thus received. All such
49 money shall be paid over to the treasurer of state
50 as miscellaneous receipts. The commission may classify

1 any warehouse in accordance with its suitability for
2 the storage of agricultural products and shall specify
3 in any license issued for the operation of any
4 warehouse the type or types and the quantity of
5 agricultural products which may be exclusively stored
6 in such the warehouse. The commission may prescribe,
7 within the limitations of this chapter, the duties
8 of licensed warehousemen with respect to the care
9 of and responsibility for the contents of licensed
10 warehouses. Grain grades shall be determined under
11 the official grain standards. The commission may
12 from time to time publish such data in connection
13 with the administration of this chapter as may be
14 of public interest. The commission shall have the
15 ~~duty of administration of the further provisions of~~
16 administer this chapter.

17 Sec. 20. Section 543.5, Code 1981, is amended
18 by adding the following new unnumbered paragraph:
19 NEW UNNUMBERED PARAGRAPH. The commission may adopt
20 rules specifying the form, content and use of scale
21 tickets, warehouse receipts, settlement sheets, daily
22 position records, shipping ledgers, and other documents
23 used by licensed warehouses. All scale ticket forms
24 and warehouse receipt forms in the possession of a
25 warehouseman shall have been permanently and
26 consecutively numbered at the time of printing. A
27 warehouseman shall maintain an accurate record of
28 the numbers of these documents. The record shall
29 include the disposition of each form, whether issued,
30 destroyed, or otherwise disposed of. The commission
31 may by rule require this use of pre-numbered forms
32 and recording for documents other than scale tickets
33 and warehouse receipts.

34 Sec. 21. Section 543.6, Code 1981, is amended
35 to read as follows:

36 543.6 ISSUANCE OF LICENSE AND FINANCIAL
37 RESPONSIBILITY.

38 1. The commission is authorized, upon application
39 to it, to issue to any warehouseman or to any person
40 about to become a warehouseman a license or licenses
41 for the operation of a warehouse or warehouses in
42 accordance with the provisions of this chapter and
43 such rules as may be made by the commission under
44 the authority of section 543.5. ~~A single license~~
45 ~~may be issued for the operation of two or more~~
46 ~~warehouses located in the same city and operated by~~
47 ~~the same warehouseman.~~ A single license to operate
48 two or more warehouses located within a twenty-five
49 mile radius of a central office may be issued, ~~but~~
50 ~~a separate fee shall be charged for each station.~~

1 2. The type of license required shall be determined
2 as follows:
3 a. A class 1 license is required if the storage
4 capacity of a warehouse is more than one hundred
5 thousand bushels.
6 b. A class 2 license is required for a warehouse
7 that is not required to have a class 1 license.
8 3. An application for a warehouse license shall
9 be accompanied by a complete financial statement of
10 the applicant setting forth the assets, liabilities
11 and net worth of the applicant. The financial
12 statement must be prepared according to normally
13 accepted accounting principles. Assets shall be shown
14 at original cost less depreciation. Upon petition
15 being-filed-with-the-commissioner written request, the
16 commission or a designated employee may allow asset
17 valuations in accordance with a competent appraisal.
18 Deferred-pricing Unpriced contracts shall be shown
19 as a liability and valued at the applicable current
20 market price of grain as of the date the financial
21 statement is prepared.
22 4. In order to receive and retain a class 1
23 license, the applicant-must-have-and-maintain-a-net
24 worth-of-at-least-twenty-five-thousand-dollars-or
25 provide-bond-in-addition-to-that-required-by-section
26 543-12-in-the-amount-of-two-thousand-dollars-for-each
27 one-thousand-dollars-or-fraction-thereof-of-net-worth
28 deficiency following conditions must be satisfied:
29 a. The warehouseman shall have and maintain a
30 net worth of at least fifty thousand dollars, or
31 maintain a bond in the amount of two thousand dollars
32 for each one thousand dollars or fraction thereof
33 of net worth deficiency. However, a person shall
34 not be licensed as a class 1 warehouseman if the
35 person has a net worth of less than twenty-five
36 thousand dollars. A bond submitted for purposes of
37 this paragraph shall be in addition to any bond
38 otherwise required under this chapter.
39 b. The warehouseman shall submit, as required
40 by the commission, a financial statement that is
41 accompanied by an unqualified opinion based upon an
42 audit performed by a certified public accountant
43 licensed in this state. However, the commission
44 may accept a qualification in an opinion that is
45 unavoidable by any audit procedure that is permitted
46 under generally accepted accounting principles. An
47 opinion that is qualified because of a limited audit
48 procedure or because the scope of an audit is limited
49 shall not be accepted by the commission. The
50 warehouseman may elect, however, to submit a financial

1 statement satisfying the requirements of subsection
2 5, paragraph b, in lieu of the audited financial
3 statement specified in this paragraph, and if a
4 warehouseman makes this election the commission shall
5 cause the warehouseman to be inspected twice during
6 each twelve-month period in the manner provided in
7 section 543.2.

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

10 a. The warehouseman shall have and maintain a
11 net worth of at least twenty-five thousand dollars,
12 or maintain a bond in the amount of two thousand
13 dollars for each one thousand dollars or fraction
14 thereof of net worth deficiency. However, a person
15 shall not be licensed as a class 2 warehouseman if
16 the person has a net worth of less than ten thousand
17 dollars. A bond submitted for purposes of this
18 paragraph shall be in addition to any bond otherwise
19 required under this chapter.

20 b. The warehouseman shall submit, as required
21 by the commission, a financial statement that is
22 accompanied by the report of a certified public
23 accountant licensed in this state that is based upon
24 a review performed by the certified public accountant.

25 6. The commission may adopt rules governing the
26 timing and form of financial statements to be submitted
27 to it. The commission may require additional
28 information or verification with respect to the
29 financial resources of the applicant or licensee and
30 the applicant's or licensee's ability to maintain
31 the quantity and quality of stored grain.

32 7. If an applicant has had a license under chapter
33 542, 542A, or 543 revoked for cause within the past
34 three years, or has been convicted of a felony
35 involving violations of chapter 542, 542A, or 543,
36 or is owned or controlled by a person who has had
37 a license so revoked or who has been so convicted,
38 the commission may deny a license to the applicant.

39 Sec. 22. Section 543.8, Code 1981, is amended
40 to read as follows:

41 543.8 LICENSE TO SPECIFY TYPE AND QUANTITY OF
42 PRODUCTS WHICH MAY BE STORED. The commission shall
43 determine with respect to each application for a
44 license whether the warehouse or warehouses described
45 in the application is or are suitable for the proper
46 and safe storage of the particular agricultural product
47 or products intended to be stored therein in the
48 quantities specified in the application, provided
49 that no warehouse shall be found to be suitable and
50 safe for the storage of bulk grain unless such

1 warehouse is equipped with a fixed or portable
2 mechanical device of a type in common use as an adjunct
3 to the movement of bulk grain. Each license issued
4 for the operation of a single warehouse shall specify
5 the type or types and quantities of agricultural
6 products which may be stored in such warehouse. Each
7 license issued to a warehouseman for the operation
8 of two or more warehouses ~~in-the-same-city~~ shall
9 specify with respect to each warehouse the type or
10 types and quantities of agricultural product which
11 may be stored in such warehouse. It shall be unlawful
12 for any licensed warehouseman to accept for storage
13 or to store in any licensed warehouse any agricultural
14 product or products other than the type or types and
15 quantities specified in the license for the operation
16 of such warehouse.

17 Sec. 23. Section 543.11, unnumbered paragraph
18 1, Code 1981, is amended to read as follows:

19 Whenever the commission shall determine that a
20 bond filed under the provisions of ~~section-543-12~~
21 this chapter and approved by the commission, is, or
22 has become, insufficient to secure the faithful
23 performance of the obligations of the licensed
24 warehouseman, or whenever the commission shall
25 determine that insurance is not fully provided as
26 required under section 543.15, it may require the
27 licensed warehouseman to provide additional bond or
28 bonds or additional evidence of insurance coverage
29 so that the bond and insurance shall conform with
30 the requirements of ~~sections-543-12,-543-13,-and~~
31 543-15 this chapter. If ~~such~~ additional insurance
32 is not provided within five days after receipt by
33 the licensee of notice by certified mail the license
34 of the warehouseman concerned shall be automatically
35 suspended. If ~~such~~ additional insurance is not filed
36 within another ~~twenty-five~~ ten days, the warehouse
37 license shall be automatically revoked. If additional
38 bond is not provided within ~~thirty~~ a period as set
39 by the commission, but not to exceed twenty days after
40 receiving notice, ~~by-certified-mail~~ the warehouse
41 license shall be suspended. If ~~such~~ additional bond
42 is not filed within ~~sixty~~ ten days following
43 suspension, the warehouse license shall be
44 automatically revoked. When a license is so revoked,
45 the commission shall notify each holder of an
46 outstanding warehouse receipt and all known persons
47 who have grain retained in open storage of such
48 revocation. The commission shall further notify each
49 receipt holder and all known persons who have grain
50 retained in open storage that the grain must be removed

1 from the warehouse not later than the thirtieth day
2 following the ~~initial~~ revocation as herein set forth.
3 Such notice shall be by ordinary mail sent to the
4 last known address of each person having grain in
5 storage as provided in this section.

6 Sec. 24. Section 543.17, Code 1981, is amended
7 to read as follows:

8 543.17 RECEIVING BULK GRAIN AT LICENSED AND
9 UNLICENSED WAREHOUSES.

10 1. Any grain which has been received at any
11 licensed warehouse for which the actual sale price
12 is not fixed and proper documentation made or payment
13 made shall be construed to be grain held for storage
14 within the meaning of this chapter. Grain may be
15 held in open storage or placed on warehouse receipt.
16 ~~Actual-payment-shall-be-made-on-all-priced-grain~~
17 ~~within-thirty-days-unless-a-deferred-payment-or~~
18 ~~deferred-pricing-contract-has-been-executed-~~ Ware-
19 house receipts shall be issued for all grain held
20 in open storage, within six months of delivery to
21 the warehouse, unless the depositor has signed a
22 statement that the depositor does not desire a
23 warehouse receipt. The warehouseman's tariff shall
24 apply for any grain that is retained in open storage
25 or under warehouse receipt.

26 2. Bulk grain deposited with a licensed
27 warehouseman for processing, cleaning, drying, shipping
28 for the account of the depositor or any other purpose
29 shall be removed within thirty days or such grain
30 shall be determined as stored grain and the
31 warehouseman's tariff charges shall apply.

32 3. Grain received on a scale ticket which fails
33 to have the price fixed and properly documented on
34 the records of the warehouseman shall be construed
35 to be in open storage.

36 4. All grain whether open storage or having been
37 placed on warehouse receipt shall be covered by the
38 warehouseman's bond as required under the provisions
39 of this chapter.

40 ~~2.--Notwithstanding-any-provisions-of-this-section,~~
41 ~~a-written-agreement-may-be-made-between-the-seller~~
42 ~~and-the-licensed-warehouseman-for-any-bulk-grain~~
43 ~~delivered-to-or-stored-at-a-licensed-warehouse-that~~
44 ~~payment-or-pricing-and-payment-will-be-deferred-to~~
45 ~~a-later-date.--Such-agreement-shall-contain-a-statement~~
46 ~~informing-the-seller-that-the-warehouseman-shall-not~~
47 ~~be-required-to-carry-insurance-or-bond-on-such-grain~~
48 ~~for-the-benefit-of-the-seller-and-that-the-payment~~
49 ~~for-such-grain-becomes-a-common-claim-against-the~~
50 ~~warehouseman-~~

1 The-agreement-in-addition-to-such-other-information
2 as-may-be-required-shall-contain-the-following:
3 a.--The-seller's-or-depositor's-name-and-address.
4 b.--The-conditions-of-delivery.
5 c.--The-amount-and-kind-of-grain-delivered.
6 d.--The-price-per-bushel-or-basis-of-value.
7 e.--The-date-payment-is-to-be-made.

8 Such-agreement-must-be-numbered-and-signed-by-both
9 parties-and-executed-in-duplicate.--One-copy-shall
10 be-retained-by-the-warehouseman-and-one-copy-shall
11 be-delivered-to-the-seller.

12 Grain-received-or-purchased-in-storage-under-a
13 deferred-payment-or-deferred-pricing-contract-under
14 the-provisions-of-this-section-shall-be-deemed-to
15 be-warehouse-owned-grain.

16 5. Any grain which has been received at any
17 unlicensed warehouse and for which the actual sale
18 price has not been fixed and payment made within
19 thirty days from receipt of the grain, unless covered
20 by deferred-payment-or-deferred-pricing a credit-sale
21 contract, shall be construed to be unlawful storage
22 within the meaning of this chapter. Bulk grain
23 received at any unlicensed warehouse for any other
24 purpose must either be returned to the depositor or
25 disposed of by order of the depositor within thirty
26 days from date of actual deposit of the bulk grain.

27 6. If the depositor of bulk grain in an unlicensed
28 warehouse fails to sell the grain or orders other
29 disposition of the grain, the warehouseman may purchase
30 the grain, if otherwise allowed by law, on the
31 thirtieth day after deposit at not less than the local
32 market price at the close of business on the thirtieth
33 day or return the grain to the depositor by the
34 thirtieth day.

35 3- 7. Every licensed warehouseman shall, on or
36 before July 1 of each year, send a statement for each
37 holder of a warehouse receipt covering grain held
38 for more than one year at that warehouse to his or
39 her last known address. The statement shall show
40 the amount of all grain held pursuant to warehouse
41 receipt for such warehouse receipt holder and the
42 amount of any storage charges held by the licensed
43 warehouseman against that grain. However, a licensed
44 warehouseman need not prepare this annual statement
45 for a holder of a warehouse receipt, if the licensed
46 warehouseman prepares such statements monthly,
47 quarterly or for any other period more frequent than
48 annually. Failure to prepare a statement required
49 by this subsection shall-be-punishable-by-a-civil
50 fine-not-to-exceed-one-hundred-dollars is a simple

1 misdemeanor. Violation of this section shall not
2 constitute grounds for suspension, revocation, or
3 modification of the license of anyone licensed under
4 this chapter.

5 Sec. 25. Section 543.18, Code 1981, is amended
6 by adding the following new unnumbered paragraph:
7 NEW UNNUMBERED PARAGRAPH. The original copy of
8 every warehouse receipt shall be imprinted with the
9 signature of the secretary of the commerce commission
10 prior to issuance.

11 Sec. 26. Section 543.33, Code 1981, is amended
12 by striking the section and inserting in lieu thereof
13 the following:

14 543.33 FEES. The commission shall charge the
15 following fees:

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

18 a. With respect to a warehouse license for the
19 storage of bulk grain:

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

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

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

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

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

32 (2) For intended storage of products of a value
33 greater than one hundred thousand dollars but not
34 greater than three hundred thousand dollars, a fee
35 of fifty dollars.

36 (3) For intended storage of products of a value
37 in excess of three hundred thousand dollars, a fee
38 of one hundred dollars.

39 2. For each inspection of a warehouse or station
40 for the purpose of licensing, a fee of twenty-five
41 dollars.

42 3. For each amendment of a license, a fee of ten
43 dollars.

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

46 5. For the cost of maintaining an employee of
47 the commission at a warehouse to supervise the
48 correction of a deficiency, a fee of one hundred fifty
49 dollars per day.

50 All fees received by the commission shall be paid

1 to the treasurer of state for deposit in the state
2 general fund. License fees for new licenses shall
3 be prorated by the commission on a monthly basis.

4 Sec. 27. Section 543.36, Code 1981, is amended
5 to read as follows:

6 543.36 PENALTIES--MISDEMEANOR INJUNCTION. Every
7 ~~person who violates or fails to comply with any of~~
8 ~~the provisions of this chapter or to comply with any~~
9 ~~lawfully authorized order, direction, demand, or rule~~
10 ~~or regulation of the commission shall be guilty of~~
11 ~~a simple misdemeanor.~~

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

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

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

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

37 Sec. 28. Section 543.37, Code 1981, is amended
38 to read as follows:

39 543.37 FAILURE TO PAY FEE. Failure to pay the
40 annual fee provided for in section 543.33 on or before
41 ~~the date the same shall become due~~ June 30 of the
42 ~~year for which due shall cause a license to terminate.~~

43 ~~The annual fee shall become due on June 30 each year.~~
44 A warehouse license which has terminated may be
45 reinstated by the commission upon receipt of a proper
46 renewal application, ~~current financial statement,~~
47 ~~the renewal fee,~~ and a penalty fee in the amount of
48 ~~ten twenty-five dollars from the warehouse,~~ if such
49 are filed within thirty days from the date of
50 termination of the warehouse license. The commission

1 may cancel the license upon request of the licensee
2 unless a complaint or information is filed against
3 the licensee alleging a violation of a provision of
4 this chapter.

5 Sec. 29. Chapter 543, Code 1981, is amended by
6 adding the following new section:

7 NEW SECTION. WAREHOUSEMAN'S OBLIGATION. A

8 warehouseman shall maintain at all times sufficient
9 quantity and quality of grain or other agricultural
10 products to cover the warehouseman's obligation.

11 A warehouseman shall not at any time have less grain
12 or other agricultural products in the warehouse than
13 the obligations to depositors.

14 Sec. 30. Chapter 543, Code 1981, is amended by
15 adding the following new section:

16 NEW SECTION. CONFIDENTIALITY OF RECORDS.

17 Notwithstanding the provisions of chapter 68A, all
18 financial statements of warehousemen under this chapter
19 shall be kept confidential by the commission and its
20 agents and employees and are not subject to disclosure
21 except as follows:

22 1. Upon waiver by the licensee.

23 2. In actions or administrative proceedings
24 commenced under this chapter or chapter 542.

25 3. When required by subpoena or other court orders.

26 4. Disclosure to law enforcement agencies in
27 regards to the detection and prosecution of public
28 offenses.

29 5. Where released to a bonding company approved
30 by the commission or to the United States department
31 of agriculture or any of their divisions.

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

34 NEW SECTION. SHRINKAGE ADJUSTMENTS--DISCLOSURES--
35 -PENALTIES.

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

1 2. A person who, in connection with the receipt
2 of grain for storage, processing or sale, adjusts
3 the quantity of the grain received to compensate for
4 losses to be incurred during the handling, processing,
5 or storage of the grain shall post on the business
6 premises in a conspicuous place notice of the rate
7 of adjustment to be made for this shrinkage. Failure
8 to make the required disclosure is a simple
9 misdemeanor.

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

BY BENNETT of Ida
HARBOR of Mills
BRANSTAD of Winnebago
HANSEN of O'Brien
HUMMEL of Benton
SWEARINGEN of Keokuk

COOK of Hardin
ANDERSON of Audubon
LAGESCHULTE of Bremer
DE GROOT of Lyon
PELLETT of Cass

H-3937 FILED
MAY 1, 1981

Adopted 5/4/81 (p. 1610)
Referred to committee (p. 1627)
Placed out of order 5/5

FISCAL NOTE

Amendment H-3937 to H. F. 841

Requested by Representative Bennett
May 1, 1981

In compliance with a written request there is hereby submitted a
Fiscal Note for Amendment H-3937 to H. F. 841 pursuant to Joint Rule 16.

Amendment H-3937 to House File 841

	<u>H.F. 841</u>	<u>H-3937</u>	<u>Incr/(Decr.)</u>
Estimated Revenue	\$644,365	791,193	146,828
Estimated Expenditures	643,809	1,013,916	<u>370,107</u>
Net Difference			\$ 223,279

Proposed Budget Warehouse Division

H-3937
Less: House File 841

FY'82
\$1,013,916 ⁽¹⁾
643,809 ⁽²⁾
\$ 370,107 Additional Expenditures
Under H-3937

(1) Includes 11 additional staff people, plus 10% of General Administration
Division expense.

(2) Includes 2 additional inspectors.

FISCAL NOTE
Amendment H-3937 to H. F. 841
Requested by Representative Cook
May 1, 1981

In compliance with a written request there is hereby submitted a Fiscal Note for Amendment H-3937 to H. F. 841 pursuant to Joint Rule 16.

Amendment H-3937 to House File 841

	<u>H.F. 841</u>	<u>H-3937(1st Yr)</u>	<u>H-3937(2nd Yr.)</u>
Revenue:	\$644,365	\$791,193	\$791,193
Expenses:	643,809	<u>952,809*</u>	<u>880,809**</u>
Expenses not covered by fees:		\$161,616	\$ 89,616

Expenses:

- *Nine additional inspectors and vehicles, two clerical staff
- **No vehicle purchases in second year

Revenues based on following assumptions:

- 900 Class I grain dealers
- 460 unqualified audits submitted
- 440 Class I grain dealers requiring two inspections (45%)

- 657 Class I warehouses
- 235* unqualified audits submitted
- 422 Class I warehouses requiring two inspections (65%)

*Remainder of 460 audits submitted are from cooperatives with federal warehouse licenses, state grain dealer's licenses

These totals also assume no Class II warehouses are Class I grain dealers.

Source: Iowa Commerce Commission

FILED MAY 4, 1981

BY GERRY D. RANKIN
Legislative Fiscal Bureau

HOUSE FILE 841

H-3943

1 Amend the Cook, et al. amendment, H-3660 to House
2 File 841 as follows:

3 1. By striking lines 2 and 3 and inserting in
4 lieu thereof the following:

5 "1. By striking page 1, line 1 through page 9
6 line 1, and inserting in lieu thereof the following:

7 "Section 1. Sections 2 through 15 of this Act
8 are enacted as a new chapter of the Code.

9 Sec. 2. NEW SECTION. PURPOSE OF THE IOWA GRAIN
10 PRODUCER INSURANCE FUND. The purpose of this chapter
11 is to generate confidence in the grain marketing
12 system in this state through the establishment of
13 a grain producer insurance fund. The general assembly
14 finds that providing for financial security in grain
15 storage and sale transactions is essential to the
16 continued well-being of grain producers and a sound
17 marketing system. The general assembly also finds
18 that the provisions of this chapter serve an essential
19 public purpose by protecting grain producers, by
20 creating confidence in grain warehouses and grain
21 dealers, by assuring the expectations of businesses
22 and industries that contribute to or support the
23 production and marketing of grain, and by stabilizing
24 the economy of this state.

25 Sec. 3. NEW SECTION. DEFINITIONS. As used in
26 this chapter, unless the context otherwise requires:

27 1. "Grain" means as defined in section 542.1.

28 2. "Grain handler" means either of the following:

29 a. A grain dealer licensed under chapter 542.

30 b. A warehouse licensed under chapter 543.

31 3. "Full market value" means the average price
32 of grain at the three elevators nearest the business
33 location of the elevator or grain dealer with whom
34 the loss was incurred as of the day the trustee
35 determines the loss occurred.

36 4. "Insurance fund" means the grain producer
37 insurance fund established under section 4 of this
38 Act.

39 5. "Sale" includes cash sales and sales pursuant
40 to credit-sale contracts as defined in chapter 542.

41 6. "Trustee" means an employee who is qualified
42 to perform the duties of trustee of the Iowa state
43 commerce commission.

44 Sec. 4. NEW SECTION. IOWA GRAIN PRODUCER INSURANCE
45 FUND ESTABLISHED--TRUSTEE.

46 1. There is established a grain producer insurance
47 fund, which shall be a perpetual trust fund to be
48 administered as provided in this chapter for the
49 benefit of the producers of grain who deliver grain
50 to a grain handler in this state for purposes of

1 storage or sale.

2 2. The insurance fund shall consist of income
3 from assessments and subrogation rights under this
4 chapter, plus interest or earnings, less disbursements
5 permitted by this chapter.

6 3. The insurance fund shall be administered by
7 the trustee.

8 4. The trustee shall deliver the assets of the
9 insurance fund to the custody of the treasurer of
10 state, who shall disburse money from the insurance
11 fund only upon the direction of the trustee. The
12 treasurer of state shall invest the money held in
13 the insurance fund, but investments shall be limited
14 to short-term, highly liquid securities. The assets
15 of the insurance fund shall be maintained separate
16 from any other funds in the custody of the treasurer
17 of state.

18 Sec. 5. NEW SECTION. DUTIES OF TRUSTEE.

19 1. The Iowa state commerce commission shall employ
20 the person to serve as trustee of the insurance fund,
21 who may be removed from office as provided in chapter
22 68. The trustee shall be appointed for a term of
23 office of four years, subject to confirmation by the
24 senate.

25 2. The trustee shall have exclusive authority
26 to administer this chapter and the insurance fund.

27 Sec. 6. NEW SECTION. ASSESSMENTS.

28 1. There shall be an assessment at the rate of
29 one mill per dollar of value upon all grain that is
30 delivered by a grain producer to a grain handler for
31 storage or that is sold by a grain producer to a grain
32 handler during a fiscal year when the assessment is
33 in effect. Grain shall not be subject to more than
34 one assessment for the purpose of this chapter.

35 2. The trustee will declare a period of assessment
36 when the balance in the insurance fund is less than
37 seven and one-half million dollars. The assessment
38 period will continue until the fund reaches ten million
39 dollars.

40 3. The trustee shall cause the declaration
41 specified in subsection 2 to be published in a
42 newspaper of general circulation in this state.
43 Publication shall be at least one week prior to the
44 date upon which the assessment commences.

45 Sec. 7. NEW SECTION. COLLECTION OF ASSESSMENTS--
46 REMITTANCE--PENALTY.

47 1. A grain handler shall collect the assessment
48 specified in section 6 of this Act for each assessable
49 transaction. An assessable transaction is one that
50 occurs on a day on which the assessment is in effect,

1 as determined under section 6 of this Act. For
2 purposes of this subsection, the date of occurrence
3 of a transaction is as follows:

4 a. A storage transaction occurs on the date grain
5 is delivered by the producer to warehouse.

6 b. A sale transaction occurs on the date of execu-
7 tion of the contract of sale, irrespective of the
8 date of delivery.

9 2. The time of collection of the assessment that
10 is due on an assessable transaction is as follows:

11 a. With respect to stored grain that is returned
12 to the producer, the assessment shall be collected
13 from the producer at the time the grain is delivered
14 to the grain handler.

15 b. With respect to grain that is sold to the grain
16 handler, exclusive of grain previously assessed under
17 paragraph a, the assessment shall be collected from
18 the producer at the time the purchase price is paid
19 by the grain handler to the producer. The amount
20 of the assessment shall be calculated by multiplying
21 the assessment rate specified in section 6, subsection
22 1, of this Act by the contract price of the grain.

23 3. The grain handler shall issue a receipt to
24 the producer for the amount collected as an assessment.
25 The receipt shall be in a form specified by the
26 trustee.

27 4. Failure to collect or remit assessments as
28 required shall be grounds for revocation of the grain
29 handler's warehouse license and grain dealer's license.

30 Sec. 8. NEW SECTION. INSURANCE PROVISIONS.

31 1. A producer who incurs a loss in connection
32 with the storage of grain with or the sale of grain
33 to a grain handler shall have a claim against the
34 insurance fund, subject to the conditions and
35 limitations contained in this section.

36 2. A loss is not compensable unless the loss is
37 caused by one of the following:

38 a. Default of a grain handler with respect to
39 a contract to store grain. The amount of the loss
40 shall be determined according to the full market value
41 of the grain as of the date of loss as determined
42 by the trustee.

43 b. Default of a grain handler in paying for
44 purchased grain. The amount of the loss shall be
45 the unpaid balance of the purchase price.

46 3. A loss is not compensable if it arose out of
47 a transaction with an unlicensed person or with a
48 person whose license was under suspension at the time
49 the transaction took place.

50 4. Compensation shall not be paid by the insurance

1 fund unless the following conditions have been
2 satisfied:

3 a. The claimant has filed such evidence of the
4 loss and the claim as may be required by trustee.
5 The claimant has the burden of proving the loss and
6 the amount of the loss.

7 b. The claimant has executed such documents as
8 may be required by the trustee to assign to the
9 insurance fund, subject to the limitations specified
10 in section 11 of this Act:

11 (1) All rights which the claimant may have with
12 respect to proceeds from bonds, insurance policies,
13 or judgments or settlements in bankruptcy proceedings
14 or other actions payable as a result of the loss
15 incurred by the claimant.

16 (2) All rights which the claimant may have against
17 any person who is or may be directly or indirectly
18 liable to the claimant for all or any part of the
19 loss for which the claim against the insurance fund
20 is made.

21 5. A claimant shall be entitled to compensation
22 from the insurance fund in an amount equal to eighty
23 percent of the compensable loss.

24 6. A producer must file a claim for a loss with
25 the trustee. The trustee shall establish a period
26 for the filing of claims which shall be one hundred
27 eighty days from the date of the occurrence resulting
28 in the loss. The trustee shall publish notice of
29 the claim period twice during the claim period in
30 a newspaper of general circulation in the area in
31 which the grain handler was engaged in business.
32 Failure by a producer to file a claim of loss within
33 the claim period absolves the insurance fund of all
34 liability with respect to the loss.

35 Sec. 9. NEW SECTION. DISCLOSURE OF CLAIMS.
36 Information relating to claims filed against the
37 insurance fund is a matter of public record and is
38 subject to examination and copying by the public under
39 chapter 68A.

40 Sec. 10. NEW SECTION. PAYMENT OF CLAIMS.

41 1. The trustee shall direct the treasurer of state
42 to make payment from the insurance fund as soon as
43 the liability to a claimant is determined.

44 2. If at any time the liabilities of the insurance
45 fund exceed the balance of the insurance fund, all
46 liabilities arising out of a single occurrence shall
47 be satisfied before payments are made against
48 liabilities arising out of subsequent occurrences.

49 3. Liabilities of the insurance fund that are
50 not fully satisfied because of a lack of funds shall

1 be satisfied as soon as funds become available for
2 payment.

3 Sec. 11. NEW SECTION. PROCEEDS FROM ASSIGNED
4 CLAIMS. The rights of the insurance fund in the
5 proceeds from rights and claims assigned to the
6 insurance fund by a claimant under section 8 of this
7 Act shall be subject to the following limitations:

8 1. The insurance fund is entitled to reimbursement
9 out of the proceeds to the extent of the amount paid
10 by the insurance fund to the claimant.

11 2. If the aggregate amount collected by the
12 insurance fund as proceeds from assignments exceeds
13 the amount of reimbursement to which the insurance
14 fund is entitled under subsection 1, the trustee shall
15 pay the excess to the claimant.

16 Sec. 12. NEW SECTION. DISCLOSURE OF INSURANCE
17 PROVISIONS. The trustee may authorize grain handlers
18 to post signs upon business premises disclosing that
19 transactions are provided protection by the insurance
20 fund, and that the insurance fund is financed by grain
21 producers. A grain handler shall not make any
22 disclosure except according to rules adopted by the
23 trustee.

24 Sec. 13. NEW SECTION. USE OF FUND EARNINGS.
25 1. The general assembly may appropriate earnings
26 of the insurance fund for use by the warehouse division
27 of the Iowa commerce commission in maintaining a staff
28 of accounting specialists to audit the business of
29 a grain handler conducted under chapters 542 or 543.

30 2. Funds appropriated to the commission under
31 subsection 1 shall not be used for any purpose other
32 than that specified in subsection 1.

33 Sec. 14. NEW SECTION. JUDICIAL REVIEW. Actions
34 of the trustee are subject to judicial review under
35 chapter 17A.

36 Sec. 15. TEMPORARY NEW SECTION. REFERENDUM--
37 EFFECTIVE DATE.

38 1. Sections 1 through 14 of this Act shall not
39 take effect unless eligible producers vote in favor
40 of establishing the insurance fund at a referendum
41 held for this purpose.

42 2. The extension service of the Iowa state
43 university will conduct a referendum as follows:
44 a. Upon receipt of a petition signed by at least
45 five hundred producers requesting an initial referendum
46 election to determine whether a promotional order
47 shall be placed in effect, the secretary shall call
48 an initial referendum election to be conducted within
49 sixty days following receipt of the petition.

50 b. If the initial referendum fails subsequent

1 referenda will be possible when five hundred producers
2 petition the trustee but subsequent petitions will
3 not be eligible prior to one year after the initial
4 referendum and additional referenda cannot be held
5 more often than annually thereafter.

6 3. Eligible producers shall be entitled to vote
7 at the referendum election in the county in which
8 they reside. For purposes of this section, an eligible
9 producer is a person who produced five acres or more
10 of grain crops that were stored in a warehouse or
11 sold to a grain handler during the calendar year most
12 recently ended prior to the date of the election.
13 Eligible producers shall vote by written ballot.
14 Each eligible producer shall be entitled to one vote,
15 and shall sign an affidavit at the time of voting
16 that certifies his or her eligibility to vote. At
17 the close of a referendum voting period the ballots
18 shall be counted and tabulated. The ballots shall
19 constitute conclusive evidence of the validity of
20 the referendum. The extension service shall notify
21 the trustee of the results of the election within
22 fifteen days after the election date.

23 4. If a majority of the eligible producers that
24 vote in the referendum vote in favor of the
25 establishment of the insurance fund, assessments shall
26 commence within sixty days following the election.
27 The trustee shall publish notice of the results of
28 the election, and the commencement date of assessments,
29 if any."

30 2. By renumbering sections."

H-3943 FILED
MAY 1, 1981

BY DAVITT of Warren
SULLIVAN of Van Buren

Placed out of order 5/4/81 (p. 1611)

HOUSE FILE 841

H-3945

1 Amend the Schroeder amendment, H-3927 to House
2 File 841 as follows:

3 1. By striking everything after page 1, line 1,
4 and inserting in lieu thereof the following:

5 "1. By striking page 1, line 1 through page 9
6 line 1, and inserting in lieu thereof the following:

7 "Section 1. Sections 2 through 15 of this Act
8 are enacted as a new chapter of the Code.

9 Sec. 2. NEW SECTION. PURPOSE OF THE IOWA GRAIN
10 PRODUCER INSURANCE FUND. The purpose of this chapter
11 is to generate confidence in the grain marketing
12 system in this state through the establishment of
13 a grain producer insurance fund. The general assembly
14 finds that providing for financial security in grain
15 storage and sale transactions is essential to the
16 continued well-being of grain producers and a sound
17 marketing system. The general assembly also finds
18 that the provisions of this chapter serve an essential
19 public purpose by protecting grain producers, by
20 creating confidence in grain warehouses and grain
21 dealers, by assuring the expectations of businesses
22 and industries that contribute to or support the
23 production and marketing of grain, and by stabilizing
24 the economy of this state.

25 Sec. 3. NEW SECTION. DEFINITIONS. As used in
26 this chapter, unless the context otherwise requires:

27 1. "Grain" means as defined in section 542.1.

28 2. "Grain handler" means either of the following:

29 a. A grain dealer licensed under chapter 542.

30 b. A warehouse licensed under chapter 543.

31 3. "Full market value" means the average price
32 of grain at the three elevators nearest the business
33 location of the elevator or grain dealer with whom
34 the loss was incurred as of the day the trustee
35 determines the loss occurred.

36 4. "Insurance fund" means the grain producer
37 insurance fund established under section 3 of this
38 Act.

39 5. "Sale" includes cash sales and sales pursuant
40 to credit-sale contracts as defined in chapter 542.

41 6. "Trustee" means an employee who is qualified
42 to perform the duties of trustee of the Iowa state
43 commerce commission.

44 Sec. 4. NEW SECTION. IOWA GRAIN PRODUCER INSURANCE
45 FUND ESTABLISHED--TRUSTEE.

46 1. There is established a grain producer insurance
47 fund, which shall be a perpetual trust fund to be
48 administered as provided in this chapter for the
49 benefit of the producers of grain who deliver grain
50 to a grain handler in this state for purposes of

H-3945
Page 2

1 storage or sale.

2 2. The insurance fund shall consist of income
3 from assessments and subrogation rights under this
4 chapter, plus interest or earnings, less disbursements
5 permitted by this chapter.

6 3. The insurance fund shall be administered by
7 the trustee.

8 4. The trustee shall deliver the assets of the
9 insurance fund to the custody of the treasurer of
10 state, who shall disburse money from the insurance
11 fund only upon the direction of the trustee. The
12 treasurer of state shall invest the money held in
13 the insurance fund, but investments shall be limited
14 to short-term, highly liquid securities. The assets
15 of the insurance fund shall be maintained separate
16 from any other funds in the custody of the treasurer
17 of state.

18 Sec. 5. NEW SECTION. DUTIES OF TRUSTEE.

19 1. The Iowa state commerce commission shall employ
20 the person to serve as trustee of the insurance fund,
21 who may be removed from office as provided in chapter
22 68. The trustee shall be appointed for a term of
23 office of four years, subject to confirmation by the
24 senate.

25 2. The trustee shall have exclusive authority
26 to administer this chapter and the insurance fund.

27 Sec. 6. NEW SECTION. ASSESSMENTS.

28 1. There shall be an assessment at the rate of
29 one mill per dollar of value upon all grain that is
30 delivered by a grain producer to a grain handler for
31 storage or that is sold by a grain producer to a grain
32 handler during a fiscal year when the assessment is
33 in effect. Grain shall not be subject to more than
34 one assessment for the purpose of this chapter.

35 2. The trustee will declare a period of assessment
36 when the balance in the insurance fund is less than
37 seven and one-half million dollars. The assessment
38 period will continue until the fund reaches ten million
39 dollars.

40 3. The trustee shall cause the declaration
41 specified in subsection 2 to be published in a
42 newspaper of general circulation in this state.
43 Publication shall be at least one week prior to the
44 date upon which the assessment commences.

45 Sec. 7. NEW SECTION. COLLECTION OF ASSESSMENTS-
46 -REMITTANCE--PENALTY.

47 1. A grain handler shall collect the assessment
48 specified in section 6 of this Act for each assessable
49 transaction. An assessable transaction is one that
50 occurs on a day on which the assessment is in effect,

H-3945
Page 3

1 as determined under section 6 of this Act. For
2 purposes of this subsection, the date of occurrence
3 of a transaction is as follows:

4 a. A storage transaction occurs on the date grain
5 is delivered by the producer to warehouse.

6 b. A sale transaction occurs on the date of execu-
7 tion of the contract of sale, irrespective of the
8 date of delivery.

9 2. The time of collection of the assessment that
10 is due on an assessable transaction is as follows:

11 a. With respect to stored grain that is returned
12 to the producer, the assessment shall be collected
13 from the producer at the time the grain is delivered
14 to the grain handler.

15 b. With respect to grain that is sold to the grain
16 handler, exclusive of grain previously assessed under
17 paragraph a, the assessment shall be collected from
18 the producer at the time the purchase price is paid
19 by the grain handler to the producer. The amount
20 of the assessment shall be calculated by multiplying
21 the assessment rate specified in section 6, subsection
22 1, of this Act by the contract price of the grain.

23 3. The grain handler shall issue a receipt to
24 the producer for the amount collected as an assessment.
25 The receipt shall be in a form specified by the
26 trustee.

27 4. Failure to collect or remit assessments as
28 required shall be grounds for revocation of the grain
29 handler's warehouse license and grain dealer's license.

30 Sec. 8. NEW SECTION. INSURANCE PROVISIONS.

31 1. A producer who incurs a loss in connection
32 with the storage of grain with or the sale of grain
33 to a grain handler shall have a claim against the
34 insurance fund, subject to the conditions and
35 limitations contained in this section.

36 2. A loss is not compensable unless the loss is
37 caused by one of the following:

38 a. Default of a grain handler with respect to
39 a contract to store grain. The amount of the loss
40 shall be determined according to the full market value
41 of the grain as of the date of loss as determined
42 by the trustee.

43 b. Default of a grain handler in paying for
44 purchased grain. The amount of the loss shall be
45 the unpaid balance of the purchase price.

46 3. A loss is not compensable if it arose out of
47 a transaction with an unlicensed person or with a
48 person whose license was under suspension at the time
49 the transaction took place.

50 4. Compensation shall not be paid by the insurance

H-3945
Page 4

1 fund unless the following conditions have been
2 satisfied:

3 a. The claimant has filed such evidence of the
4 loss and the claim as may be required by trustee.
5 The claimant has the burden of proving the loss and
6 the amount of the loss.

7 b. The claimant has executed such documents as
8 may be required by the trustee to assign to the
9 insurance fund, subject to the limitations specified
10 in section 11 of this Act:

11 (1) All rights which the claimant may have with
12 respect to proceeds from bonds, insurance policies,
13 or judgments or settlements in bankruptcy proceedings
14 or other actions payable as a result of the loss
15 incurred by the claimant.

16 (2) All rights which the claimant may have against
17 any person who is or may be directly or indirectly
18 liable to the claimant for all or any part of the
19 loss for which the claim against the insurance fund
20 is made.

21 5. A claimant shall be entitled to compensation
22 from the insurance fund in an amount equal to eighty
23 percent of the compensable loss.

24 6. A producer must file a claim for a loss with
25 the trustee. The trustee shall establish a period
26 for the filing of claims which shall be one hundred
27 eighty days from the date of the occurrence resulting
28 in the loss. The trustee shall publish notice of
29 the claim period twice during the claim period in
30 a newspaper of general circulation in the area in
31 which the grain handler was engaged in business.
32 Failure by a producer to file a claim of loss within
33 the claim period absolves the insurance fund of all
34 liability with respect to the loss.

35 Sec. 9. NEW SECTION. DISCLOSURE OF CLAIMS.
36 Information relating to claims filed against the
37 insurance fund is a matter of public record and is
38 subject to examination and copying by the public under
39 chapter 68A.

40 Sec. 10. NEW SECTION. PAYMENT OF CLAIMS.
41 1. The trustee shall direct the treasurer of state
42 to make payment from the insurance fund as soon as
43 the liability to a claimant is determined.

44 2. If at any time the liabilities of the insurance
45 fund exceed the balance of the insurance fund, all
46 liabilities arising out of a single occurrence shall
47 be satisfied before payments are made against
48 liabilities arising out of subsequent occurrences.

49 3. Liabilities of the insurance fund that are
50 not fully satisfied because of a lack of funds shall

1 be satisfied as soon as funds become available for
2 payment.

3 Sec. 11. NEW SECTION. PROCEEDS FROM ASSIGNED
4 CLAIMS. The rights of the insurance fund in the
5 proceeds from rights and claims assigned to the
6 insurance fund by a claimant under section 8 of this
7 Act shall be subject to the following limitations:

8 1. The insurance fund is entitled to reimbursement
9 out of the proceeds to the extent of the amount paid
10 by the insurance fund to the claimant.

11 2. If the aggregate amount collected by the
12 insurance fund as proceeds from assignments exceeds
13 the amount of reimbursement to which the insurance
14 fund is entitled under subsection 1, the trustee shall
15 pay the excess to the claimant.

16 Sec. 12. NEW SECTION. DISCLOSURE OF INSURANCE
17 PROVISIONS. The trustee may authorize grain handlers
18 to post signs upon business premises disclosing that
19 transactions are provided protection by the insurance
20 fund, and that the insurance fund is financed by grain
21 producers. A grain handler shall not make any
22 disclosure except according to rules adopted by the
23 trustee.

24 Sec. 13. NEW SECTION. USE OF FUND EARNINGS.

25 1. The general assembly may appropriate earnings
26 of the insurance fund for use by the warehouse division
27 of the Iowa commerce commission in maintaining a staff
28 of accounting specialists to audit the business of
29 a grain handler conducted under chapters 542 or 543.

30 2. Funds appropriated to the commission under
31 subsection 1 shall not be used for any purpose other
32 than that specified in subsection 1.

33 Sec. 14. NEW SECTION. JUDICIAL REVIEW. Actions
34 of the trustee are subject to judicial review under
35 chapter 17A.

36 Sec. 15. TEMPORARY NEW SECTION. REFERENDUM--
37 EFFECTIVE DATE.

38 1. Sections 1 through 14 of this Act shall not
39 take effect unless eligible producers vote in favor
40 of establishing the insurance fund at a referendum
41 held for this purpose.

42 2. The extension service of the Iowa state
43 university will conduct a referendum as follows:

44 a. Upon receipt of a petition signed by at least
45 five hundred producers requesting an initial referendum
46 election to determine whether a promotional order
47 shall be placed in effect, the secretary shall call
48 an initial referendum election to be conducted within
49 sixty days following receipt of the petition.

50 b. If the initial referendum fails subsequent

H-3945
Page 6

1 referenda will be possible when five hundred producers
2 petition the trustee but subsequent petitions will
3 not be eligible prior to one year after the initial
4 referendum and additional referenda cannot be held
5 more often than annually thereafter.

6 3. Eligible producers shall be entitled to vote
7 at the referendum election in the county in which
8 they reside. For purposes of this section, an eligible
9 producer is a person who produced five acres or more
10 of grain crops that were stored in a warehouse or
11 sold to a grain handler during the calendar year most
12 recently ended prior to the date of the election.
13 Eligible producers shall vote by written ballot.
14 Each eligible producer shall be entitled to one vote,
15 and shall sign an affidavit at the time of voting
16 that certifies his or her eligibility to vote. At
17 the close of a referendum voting period the ballots
18 shall be counted and tabulated. The ballots shall
19 constitute conclusive evidence of the validity of
20 the referendum. The extension service shall notify
21 the trustee of the results of the election within
22 fifteen days after the election date.

23 4. If a majority of the eligible producers that
24 vote in the referendum vote in favor of the
25 establishment of the insurance fund, assessments shall
26 commence within sixty days following the election.
27 The trustee shall publish notice of the results of
28 the election, and the commencement date of assessments,
29 if any."

30 2. By renumbering sections."

H-3945 FILED MAY 1, 1981 BY DAVITT of Warren
Placed on order 5/4/81 (p. 16.11) SULLIVAN of Van Buren

HOUSE FILE 841

H-3948

1 Amend the Schroeder amendment, H-3927 to House
2 File 841 as follows:

3 1. Page 1, by inserting before line 1 the following:
4 "Amend House File 841 as follows:

5 1. By striking page 1, line 1 through page 9
6 line 1, and inserting in lieu thereof the following:
7 "Section 1. Sections 2 through 15 of this Act
8 are enacted as a new chapter of the Code.

9 Sec. 2. NEW SECTION. PURPOSE OF THE IOWA GRAIN
10 PRODUCER INSURANCE FUND. The purpose of this chapter
11 is to generate confidence in the grain marketing
12 system in this state through the establishment of
13 a grain producer insurance fund. The general assembly
14 finds that providing for financial security in grain
15 storage and sale transactions is essential to the
16 continued well-being of grain producers and a sound
17 marketing system. The general assembly also finds
18 that the provisions of this chapter serve an essential
19 public purpose by protecting grain producers, by
20 creating confidence in grain warehouses and grain
21 dealers, by assuring the expectations of businesses
22 and industries that contribute to or support the
23 production and marketing of grain, and by stabilizing
24 the economy of this state.

25 Sec. 3. NEW SECTION. DEFINITIONS. As used in
26 this chapter, unless the context otherwise requires:

27 1. "Grain" means as defined in section 542.1.
28 2. "Grain handler" means either of the following:
29 a. A grain dealer licensed under chapter 542.
30 b. A warehouse licensed under chapter 543.
31 3. "Full market value" means the average price
32 of grain at the three elevators nearest the business
33 location of the elevator or grain dealer with whom
34 the loss was incurred as of the day the trustee
35 determines the loss occurred.

36 4. "Insurance fund" means the grain producer
37 insurance fund established under section 3 of this
38 Act.

39 5. "Sale" includes cash sales and sales pursuant
40 to credit-sale contracts as defined in chapter 542.

41 6. "Trustee" means an employee who is qualified
42 to perform the duties of trustee of the Iowa state
43 commerce commission.

44 Sec. 4. NEW SECTION. IOWA GRAIN PRODUCER INSURANCE
45 FUND ESTABLISHED--TRUSTEE.

46 1. There is established a grain producer insurance
47 fund, which shall be a perpetual trust fund to be
48 administered as provided in this chapter for the
49 benefit of the producers of grain who deliver grain
50 to a grain handler in this state for purposes of

May 4, 1981

H-3948

Page 2

1 storage or sale.

2 2. The insurance fund shall consist of income
3 from assessments and subrogation rights under this
4 chapter, plus interest or earnings, less disbursements
5 permitted by this chapter.

6 3. The insurance fund shall be administered by
7 the trustee.

8 4. The trustee shall deliver the assets of the
9 insurance fund to the custody of the treasurer of
10 state, who shall disburse money from the insurance
11 fund only upon the direction of the trustee. The
12 treasurer of state shall invest the money held in
13 the insurance fund, but investments shall be limited
14 to short-term, highly liquid securities. The assets
15 of the insurance fund shall be maintained separate
16 from any other funds in the custody of the treasurer
17 of state.

18 Sec. 5. NEW SECTION. DUTIES OF TRUSTEE.

19 1. The Iowa state commerce commission shall employ
20 the person to serve as trustee of the insurance fund,
21 who may be removed from office as provided in chapter
22 68. The trustee shall be appointed for a term of
23 office of four years, subject to confirmation by the
24 senate.

25 2. The trustee shall have exclusive authority
26 to administer this chapter and the insurance fund.

27 Sec. 6. NEW SECTION. ASSESSMENTS.

28 1. There shall be an assessment at the rate of
29 one mill per dollar of value upon all grain that is
30 delivered by a grain producer to a grain handler for
31 storage or that is sold by a grain producer to a grain
32 handler during a fiscal year when the assessment is
33 in effect. Grain shall not be subject to more than
34 one assessment for the purpose of this chapter.

35 2. The trustee will declare a period of assessment
36 when the balance in the insurance fund is less than
37 seven and one-half million dollars. The assessment
38 period will continue until the fund reaches ten million
39 dollars.

40 3. The trustee shall cause the declaration
41 specified in subsection 2 to be published in a
42 newspaper of general circulation in this state.
43 Publication shall be at least one week prior to the
44 date upon which the assessment commences.

45 Sec. 7. NEW SECTION. COLLECTION OF ASSESSMENTS-
46 -REMITTANCE--PENALTY.

47 1. A grain handler shall collect the assessment
48 specified in section 6 of this Act for each assessable
49 transaction. An assessable transaction is one that
50 occurs on a day on which the assessment is in effect,

H-3948
Page 3

1 as determined under section 6 of this Act. For
2 purposes of this subsection, the date of occurrence
3 of a transaction is as follows:

4 a. A storage transaction occurs on the date grain
5 is delivered by the producer to warehouse.

6 b. A sale transaction occurs on the date of execu-
7 tion of the contract of sale, irrespective of the
8 date of delivery.

9 2. The time of collection of the assessment that
10 is due on an assessable transaction is as follows:

11 a. With respect to stored grain that is returned
12 to the producer, the assessment shall be collected
13 from the producer at the time the grain is delivered
14 to the grain handler.

15 b. With respect to grain that is sold to the grain
16 handler, exclusive of grain previously assessed under
17 paragraph a, the assessment shall be collected from
18 the producer at the time the purchase price is paid
19 by the grain handler to the producer. The amount
20 of the assessment shall be calculated by multiplying
21 the assessment rate specified in section 6, subsection
22 1, of this Act by the contract price of the grain.

23 3. The grain handler shall issue a receipt to
24 the producer for the amount collected as an assessment.
25 The receipt shall be in a form specified by the
26 trustee.

27 4. Failure to collect or remit assessments as
28 required shall be grounds for revocation of the grain
29 handler's warehouse license and grain dealer's license.

30 Sec. 8. NEW SECTION. INSURANCE PROVISIONS.

31 1. A producer who incurs a loss in connection
32 with the storage of grain with or the sale of grain
33 to a grain handler shall have a claim against the
34 insurance fund, subject to the conditions and
35 limitations contained in this section.

36 2. A loss is not compensable unless the loss is
37 caused by one of the following:

38 a. Default of a grain handler with respect to
39 a contract to store grain. The amount of the loss
40 shall be determined according to the full market value
41 of the grain as of the date of loss as determined
42 by the trustee.

43 b. Default of a grain handler in paying for
44 purchased grain. The amount of the loss shall be
45 the unpaid balance of the purchase price.

46 3. A loss is not compensable if it arose out of
47 a transaction with an unlicensed person or with a
48 person whose license was under suspension at the time
49 the transaction took place.

50 4. Compensation shall not be paid by the insurance

H-3948
Page 4

1 fund unless the following conditions have been
2 satisfied:

3 a. The claimant has filed such evidence of the
4 loss and the claim as may be required by trustee.
5 The claimant has the burden of proving the loss and
6 the amount of the loss.

7 b. The claimant has executed such documents as
8 may be required by the trustee to assign to the
9 insurance fund, subject to the limitations specified
10 in section 11 of this Act:

11 (1) All rights which the claimant may have with
12 respect to proceeds from bonds, insurance policies,
13 or judgments or settlements in bankruptcy proceedings
14 or other actions payable as a result of the loss
15 incurred by the claimant.

16 (2) All rights which the claimant may have against
17 any person who is or may be directly or indirectly
18 liable to the claimant for all or any part of the
19 loss for which the claim against the insurance fund
20 is made.

21 5. A claimant shall be entitled to compensation
22 from the insurance fund in an amount equal to eighty
23 percent of the compensable loss.

24 6. A producer must file a claim for a loss with
25 the trustee. The trustee shall establish a period
26 for the filing of claims which shall be one hundred
27 eighty days from the date of the occurrence resulting
28 in the loss. The trustee shall publish notice of
29 the claim period twice during the claim period in
30 a newspaper of general circulation in the area in
31 which the grain handler was engaged in business.
32 Failure by a producer to file a claim of loss within
33 the claim period absolves the insurance fund of all
34 liability with respect to the loss.

35 Sec. 9. NEW SECTION. DISCLOSURE OF CLAIMS.
36 Information relating to claims filed against the
37 insurance fund is a matter of public record and is
38 subject to examination and copying by the public under
39 chapter 68A.

40 Sec. 10. NEW SECTION. PAYMENT OF CLAIMS.

41 1. The trustee shall direct the treasurer of state
42 to make payment from the insurance fund as soon as
43 the liability to a claimant is determined.

44 2. If at any time the liabilities of the insurance
45 fund exceed the balance of the insurance fund, all
46 liabilities arising out of a single occurrence shall
47 be satisfied before payments are made against
48 liabilities arising out of subsequent occurrences.

49 3. Liabilities of the insurance fund that are
50 not fully satisfied because of a lack of funds shall

H-3948
Page 5

1 be satisfied as soon as funds become available for
2 payment.

3 Sec. 11. NEW SECTION. PROCEEDS FROM ASSIGNED
4 CLAIMS. The rights of the insurance fund in the
5 proceeds from rights and claims assigned to the
6 insurance fund by a claimant under section 8 of this
7 Act shall be subject to the following limitations:

8 1. The insurance fund is entitled to reimbursement
9 out of the proceeds to the extent of the amount paid
10 by the insurance fund to the claimant.

11 2. If the aggregate amount collected by the
12 insurance fund as proceeds from assignments exceeds
13 the amount of reimbursement to which the insurance
14 fund is entitled under subsection 1, the trustee shall
15 pay the excess to the claimant.

16 Sec. 12. NEW SECTION. DISCLOSURE OF INSURANCE
17 PROVISIONS. The trustee may authorize grain handlers
18 to post signs upon business premises disclosing that
19 transactions are provided protection by the insurance
20 fund, and that the insurance fund is financed by grain
21 producers. A grain handler shall not make any
22 disclosure except according to rules adopted by the
23 trustee.

24 Sec. 13. NEW SECTION. USE OF FUND EARNINGS.

25 1. The general assembly may appropriate earnings
26 of the insurance fund for use by the warehouse division
27 of the Iowa commerce commission in maintaining a staff
28 of accounting specialists to audit the business of
29 a grain handler conducted under chapters 542 or 543.

30 2. Funds appropriated to the commission under
31 subsection 1 shall not be used for any purpose other
32 than that specified in subsection 1.

33 Sec. 14. NEW SECTION. JUDICIAL REVIEW. Actions
34 of the trustee are subject to judicial review under
35 chapter 17A.

36 Sec. 15. TEMPORARY NEW SECTION. REFERENDUM--
37 EFFECTIVE DATE.

38 1. Sections 1 through 14 of this Act shall not
39 take effect unless eligible producers vote in favor
40 of establishing the insurance fund at a referendum
41 held for this purpose.

42 2. The extension service of the Iowa state
43 university will conduct a referendum as follows:

44 a. Upon receipt of a petition signed by at least
45 five hundred producers requesting an initial referendum
46 election to determine whether a promotional order
47 shall be placed in effect, the secretary shall call
48 an initial referendum election to be conducted within
49 sixty days following receipt of the petition.

50 b. If the initial referendum fails subsequent

H-3948
Page 6

1 referenda will be possible when five hundred producers
2 petition the trustee but subsequent petitions will
3 not be eligible prior to one year after the initial
4 referendum and additional referenda cannot be held
5 more often than annually thereafter.

6 3. Eligible producers shall be entitled to vote
7 at the referendum election in the county in which
8 they reside. For purposes of this section, an eligible
9 producer is a person who produced five acres or more
10 of grain crops that were stored in a warehouse or
11 sold to a grain handler during the calendar year most
12 recently ended prior to the date of the election.
13 Eligible producers shall vote by written ballot.
14 Each eligible producer shall be entitled to one vote,
15 and shall sign an affidavit at the time of voting
16 that certifies his or her eligibility to vote. At
17 the close of a referendum voting period the ballots
18 shall be counted and tabulated. The ballots shall
19 constitute conclusive evidence of the validity of
20 the referendum. The extension service shall notify
21 the trustee of the results of the election within
22 fifteen days after the election date.

23 4. If a majority of the eligible producers that
24 vote in the referendum vote in favor of the
25 establishment of the insurance fund, assessments shall
26 commence within sixty days following the election.
27 The trustee shall publish notice of the results of
28 the election, and the commencement date of assessments,
29 if any."

30 2. By striking page 1, line 1 through page 14,
31 line 26.

32 3. By renumbering sections."

H-3948 FILED MAY 1, 1981 BY DAVITT of Warren
Motion to substitute 3948 SULLIVAN of Van Buren
for 3937 dated 5/4/81 (p. 1609)

H-3950 (Amendment H-3950 is identical to Amendment H-3937 with the following addition.)

23 Sec. 32. Section 554.9203, Code 1981, is amended by
 24 adding the following new paragraph:
 25 NEW PARAGRAPH. Notwithstanding any other provision of
 26 this chapter a grain producer is defined in Chapter 542
 27 who delivers grain to a grain dealer as defined in Chapter
 28 542 without receiving full cash payment at the time of said
 29 delivery, and without receiving a warehouse receipt as
 30 defined in Section 554.7102, Code 1981, shall be deemed
 31 to have made a purchase money loan payable on the producer's
 32 demand to said dealer and shall have a perfected purchase money
 33 security interest in said grain and in proceeds thereof as
 34 defined in Section 554.9306, Code 1981; to extent of the
 35 value of the grain delivered less any cash payment received
 36 by the producer.

H-3950 FILED
 MAY 1, 1981
 MOTION TO SUBSTITUTE
 LOST (p. 1544)

BY RAPP of Black Hawk
 SULLIVAN of Van Buren
 COCHRAN of Webster
 DAVITT of Warren

HOUSE FILE 841

H-3951

1 Amend amendment H-3927 to House File 841, as
 2 follows:
 3 1. Page 1, by striking lines 21 and 22 and
 4 inserting in lieu thereof the following: "trustee,
 5 guardian, or conservator of an estate; or a person
 6 who buys unprocessed popcorn produced in this state
 7 if the person is also engaged in the business of
 8 processing the popcorn into the form or condition in
 9 which it will be sold to consumers; or a bargaining
 10 agent as defined in section 542A.1."

H-3951 FILED
 MAY 1, 1981
 Placed out of order 5/4/81

BY O'KANE of Woodbury
 JOHNSON of Linn
 BINNEBOESE of Plymouth

STURGEON of Woodbury
 HALL of Linn
 HORN of Linn

HOUSE FILE 841

H-3955

1 Amend amendment H-3937 to House File 841, as
 2 follows:
 3 1. Page 1, by striking lines 22 and 23 and
 4 inserting in lieu thereof the following: "trustee,
 5 guardian, or conservator of an estate; or a person
 6 who buys unprocessed popcorn produced in this state
 7 if the person is also engaged in the business of
 8 processing the popcorn into the form or condition
 9 in which it will be sold to consumers; or a bargaining
 10 agent as defined in section 542A.1."

H-3955 FILED MAY 1, 1981
 Placed out of order 5/4/81

BY O'KANE of Woodbury
 HOUSE FILE 841

H-3956

1 Amend amendment H-3950 to amendment H-3927 to
 2 House File 841 as follows:
 3 1. Page 23, line 35, by inserting after the
 4 word "delivered" the words "on the date of demand".

H-3956 FILED MAY 1, 1981
 ADOPTED BY UNANIMOUS CONSENT (p. 1593) BY RAPP of Black Hawk

SENATE 2
MAY 19, 1981

HOUSE FILE 841
FISCAL NOTE

REQUESTED BY SENATOR HOLDEN

In compliance with a written request there is hereby submitted a Fiscal Note for Reprinted House File 841 pursuant to Joint Rule 16.

House File 841 as passed by the House and Reprinted

	H.F. 841 Before Amended	H.F. 841 As Reprinted 1st Yr.	H.F. 841 As Reprinted 2nd Yr.
Revenue:	\$644,365	\$791,193	\$791,193
Expenses:	643,809	869,561*	801,705**
Expenses not covered by fees:	\$ 78,368		\$ 10,512

Expenses:

*Nine additional inspectors and vehicles, two clerical staff
**No vehicle purchases in second year

Revenues based on following assumptions:

900 Class I Grain Dealers
-460 Unqualified Audits Submitted
440 Class I Grain Dealers Requiring Two Inspections (45%)

657 Class I Warehouses
-235* Unqualified Audits Submitted
422 Class I Warehouses Requiring Two Inspections (65%)

*Remainder of 460 audits submitted are from cooperatives with federal warehouse licenses, state grain dealer's licenses

These totals also assume no Class II warehouses are Class I grain dealers.

SOURCE: IOWA COMMERCE COMMISSION
RECEIVED BY THE SECRETARY OF THE SENATE, MAY 14, 1981
FILED: BY GERRY D. RANKIN, DIRECTOR
MAY 18, 1981 LEGISLATIVE FISCAL BUREAU

HOUSE FILE 841

Ways and Means
Holden, Chairperson
Taylor
Priebe

5/7/81

Amend per 2867 & Co. Pass
5/21/81 (p. 1815)

HOUSE FILE 841

BY COMMITTEE ON WAYS AND MEANS

(As Amended and Passed by the House)

Passed House, Date 5-22-81 (p. 2254) Passed Senate, Date 5-22-81 (p. 1848)

Vote: Ayes 93 Nays 2 Vote: Ayes 46 Nays 1

Approved June 13, 1981

A BILL FOR

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

3,367
3,352

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

House Amendments _____

1 Section 1. Section 542.1, subsection 3, Code 1981, is
3867 2 amended to read as follows:

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

3867 18 Sec. 2. Section 542.1, subsection 4, Code 1981, is amended
19 by striking the subsection and inserting in lieu thereof the
20 following:

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

3867 25 Sec. 3. Section 542.1, Code 1981, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. "Credit-sale contract" means a contract
28 for the sale of grain pursuant to which the sale price is
29 to be paid at a date subsequent to the delivery of the grain
30 to the buyer, and includes but is not limited to those
31 contracts commonly referred to as deferred payment contracts,
32 deferred pricing contracts, and price-later contracts.

3867 33 Sec. 4. Section 542.3, Code 1981, is amended to read as
34 follows:

35 542.3 LICENSE REQUIRED--FINANCIAL RESPONSIBILITY.

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

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

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

12 b. A class 2 license is required for any grain dealer
13 not holding a class 1 license. A class 2 licensee whose
14 purchases from producers during a fiscal year exceed two hun-
15 dred fifty thousand dollars in value shall apply immediately
16 for a class 1 license. If a class 1 license is denied, the
17 person immediately shall cease doing business as a grain
18 dealer.

19 3. Each An application for a license to engage in business
20 as a grain dealer shall be filed with the commission and shall
21 be in a form prescribed by the commission. The application
22 shall include the name of the applicant, its principal officers
23 if the applicant is a corporation or the active members of
24 a partnership if the applicant is a partnership and the
25 location of the principal office or place of business of the
26 applicant. A separate license shall be required for each
27 location at which the records are normally-kept maintained
28 for transactions of the grain dealer. The application shall
29 also list the number of trucks or tractor trailer units that
30 will be used in the transportation of grain purchased for
31 resale under this chapter. The application shall be
32 accompanied by a complete financial statement of the applicant
33 setting forth the assets, liabilities and the net worth of
34 the applicant. The financial statement must be prepared
35 according to generally accepted accounting principles. Assets

1 shall be shown at original cost less depreciation. Upon a
2 petition written request filed with the commission, the
3 commission or a designated employee may allow asset valuations
4 in accordance with a competent appraisal. Deferred pricing
5 Unpriced contracts shall be shown as a liability and valued
6 at the applicable current market price of grain as of the
7 date the financial statement is prepared.

8 4. In order to receive and retain a class 1 license the
9 applicant must have and maintain a net worth of at least
10 twenty-five thousand dollars or provide bond in addition to
11 that required by section 542.4 in the amount of two thousand
12 dollars for each one thousand dollars or fraction thereof
13 of net worth deficiency following conditions must be satisfied:

14 a. The grain dealer shall have and maintain a net worth
15 of at least fifty thousand dollars, or maintain a bond in
16 the amount of two thousand dollars for each one thousand
17 dollars or fraction thereof of net worth deficiency. However,
18 a person shall not be licensed as a class 1 grain dealer if
19 the person has a net worth of less than twenty-five thousand
20 dollars. A bond submitted for purposes of this paragraph
21 shall be in addition to any bond otherwise required under
22 this chapter.

23 b. The grain dealer shall submit, as required by the com-
24 mission, a financial statement that is accompanied by an un-
25 qualified opinion based upon an audit performed by a certified
26 public accountant licensed in this state. However, the
27 commission may accept a qualification in an opinion that is
28 unavoidable by any audit procedure that is permitted under
29 generally accepted accounting principles. An opinion that
30 is qualified because of a limited audit procedure or because
31 the scope of an audit is limited shall not be accepted by
32 the commission. The grain dealer may elect, however, to
33 submit a financial statement satisfying the requirements of
34 subsection 5, paragraph b, in lieu of the audited financial
35 statement specified in this paragraph, and if a grain dealer

1 makes this election the commission shall cause the grain
2 dealer to be inspected twice during each twelve-month period
3 in the manner provided in section 542.9.

4 c. The grain dealer shall have and maintain current assets
5 equal to at least ninety percent of current liabilities or
6 provide bond in the amount of two thousand dollars for each
7 one thousand dollars or fraction thereof of current assets
8 lacking to meet this minimum. A bond submitted for purposes
9 of this paragraph shall be in addition to any bond otherwise
10 permitted or required under this chapter.

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

13 a. The grain dealer shall have and maintain a net worth
14 of at least twenty-five thousand dollars, or maintain a bond
15 in the amount of two thousand dollars for each one thousand
16 dollars or fraction thereof of net deficiency. However, a
17 person shall not be licensed as a class 2 grain dealer if
18 the person has a net worth of less than ten thousand dollars.
19 A bond submitted for purposes of this paragraph shall be in
20 addition to any bond otherwise required under this chapter.

21 b. The grain dealer shall submit, as required by the com-
22 mission, a financial statement that is accompanied by the
23 report of a certified public accountant licensed in this state
24 that is based upon a review performed by the certified public
25 accountant.

26 c. The grain dealer shall have and maintain current assets
27 equal to at least ninety percent of current liabilities or
28 provide bond in the amount of two thousand dollars for each
29 one thousand dollars or fraction thereof of current assets
30 lacking to meet this minimum. A bond submitted for purposes
31 of this paragraph shall be in addition to any bond otherwise
32 permitted or required under this chapter.

33 6. The commission shall adopt rules relating to the form
34 and time of filing of financial statements. The commission
35 may require additional information or verification with respect

1 to the financial resources of the applicant and the applicant's
2 ability to pay producers for grain purchased from them.

38673 Sec. 5. Section 542.4, Code 1981, is amended to read as
4 follows:

5 542.4 BOND REQUIRED. Any person applying An applicant
6 for a license to operate as a grain dealer in accordance with
7 this chapter shall, as a condition to the granting of the
8 license, file with the commission a bond payable to the state
9 of Iowa with a corporate surety approved by the commission
10 in a penal sum of twenty-five thousand dollars per license
11 conditioned that the applicant will pay the purchase price
12 of any grain to the seller, and that the grain dealer owns
13 or controls, free of liens, any grain which he or she offers
14 for sale producer; provided that the aggregate liability of
15 the surety to such persons shall in no event exceed the sum
16 of such bond. The bond for each class 1 license shall be
17 in the penal sum of fifty thousand dollars. The bond for
18 each class 2 license shall be in the penal sum of twenty-five
19 thousand dollars. One bond, cumulative as to minimum
20 requirements, shall be required where a person has multiple
21 licenses more than one license, but in no event shall the
22 total amount of bond required by this section exceed one
23 hundred thousand dollars three hundred thousand dollars for
24 a class 1 licensee, or one hundred fifty thousand dollars
25 for a class 2 licensee. No bond shall be canceled by a surety
26 before at least sixty days' notice by certified mail to the
27 commission and the grain dealer. The liability of the surety
28 shall cover all purchases and transactions made by the grain
29 dealer during the time the bond is in force. A grain dealer's
30 bond filed with this commission shall be in continuous force
31 until canceled by the surety. The liability of the surety
32 on any bond required by the provisions of this chapter shall
33 not accumulate for each successive license period during which
34 the bond is in force.

386735 Sec. 6. Section 542.5, Code 1981, is amended to read as

1 follows:

2 542.5 LICENSE. Upon the filing of the application and
3 compliance with the terms and conditions of this chapter and
4 rules of the commission, the commission shall issue a license
5 to the applicant. The license shall terminate on the thirtieth
6 of June of each year. A grain dealer's license may be renewed
7 annually by the filing of a renewal fee, a current financial
8 statement and a renewal application on a form prescribed by
9 the commission. An application for renewal shall be received
10 by the commission before the thirtieth of June. A grain
11 dealer license which has terminated may be reinstated by the
12 commission upon receipt of a proper renewal application, a
13 current financial statement, the renewal fee, and penalty
14 fee in the amount of ten fifty dollars from the grain dealer,
15 provided that such materials are filed within thirty days
16 from the date of termination of the grain dealer license.
17 The commission may cancel a license upon request of the
18 licensee unless a complaint or information is filed against
19 the licensee alleging a violation of a provision of this
20 chapter.

21 If an applicant has had a license under chapter 542, 542A,
22 or 543 revoked for cause within the past three years, or has
23 been convicted of a felony involving violations of chapter
24 542, 542A, or 543, or is owned or controlled by a person who
25 has had a license so revoked or who has been so convicted,
26 the commission may deny a license to the applicant.

27 Sec. 7. Section 542.6, Code 1981, is amended to read as
28 follows:

29 542.6 FEES. The commission shall collect fees as follows
30 the following fees, for deposit in the general fund:

31 1. For the issuance or renewal of a license, twenty-five
32 dollars per year or fraction of a year two hundred dollars
33 per year for a class 1 license, and eighty-five dollars per
34 year for a class 2 license. The commission shall prorate
35 the annual fee on a monthly basis for licenses issued for

1 less than a full year.

2 2. For-renewal-of-license, twenty-five-dollars-per-year.

3 For the inspection of a class 1 grain dealer, one hundred
4 fifty dollars, but if the class 1 grain dealer is subject
5 to a second inspection during any twelve-month period pursuant
6 to section 542.3, subsection 4, paragraph b, the fee for the
7 second inspection shall be seventy-five dollars; and for the
8 inspection of a class 2 grain dealer, sixty-five dollars.

9 3. An annual registration fee, to-be-determined-by-the
10 commission, of not-less-than-five-dollars-not-more-than-ten
11 fifteen dollars for each vehicle used by the license holder
12 in the transporting of grain purchased under this chapter.

13 4. A fee of one-dollar-will-be-charged ten dollars for
14 issuance of each duplicate replacement identification plate
15 to be used on any vehicle.

16 5. All-fees-collected-by-the-commission-under-this-chapter
17 shall-be-deposited-in-the-general-fund-of-the-state.

18 3367 Sec. 8. Section 542.7, Code 1981, is amended to read as
19 follows:

20 542.7 POSTING OF LICENSE AND REGISTRATION. The grain
21 dealer's license shall be posted in a conspicuous place
22 location in the place of business. Each vehicle used by a
23 license holder shall be registered with the commission and
24 equipped with a special decal-or-other-registration
25 identification plate as prescribed by the commission so that
26 the decal plate will be readily visible. A grain dealer's
27 license is not transferable. The registration identification
28 plate shall not be transferred from one vehicle to another,
29 except in case of destruction or other disposition of the
30 vehicle previously bearing the identification. All transfers
31 must first be approved by the commission. If a-registration
32 an identification plate for a vehicle becomes defaced or
33 destroyed, a-duplicate-shall-be-obtained the licensee shall
34 request a replacement from the commission, which shall be
35 issued upon request-and payment of the fee.

1 Sec. 9. Section 542.8, Code 1981, is amended to read as
2 follows:

3 542.8 PAYMENT. A person licensed as a grain dealer shall
4 pay the purchase price to the owner or his or her agent for
5 grain upon delivery or demand of the owner or agent, but not
6 later than thirty days after delivery by the owner or agent
7 unless in accordance with the terms of a duly-executed-deferred
8 payment-or-deferred-pricing-contract credit-sale contract
9 that satisfies the requirements of this chapter. The contract
10 in-addition-to-such-other-information-as-may-be-required-shall
11 contain-the-following:

12 1.--The-seller's-name-and-address.

13 2.--The-conditions-of-delivery.

14 3.--The-amount-and-kind-of-grain-delivered.

15 4.--The-price-per-bushel-or-basis-of-value.

16 5.--The-date-payment-is-to-be-made.

17 The contract must be numbered and signed by both parties
18 and executed in duplicate.--One copy shall be retained by
19 the grain dealer and one copy shall be delivered to the seller.
20 Upon revocation, termination, or cancellation of a grain
21 dealer license, the payment date for all deferred payment
22 or deferred pricing contracts shall be advanced to a date
23 not later than thirty days after the effective date of such
24 revocation, termination or cancellation and the purchase price
25 for all unsold grain shall be determined as of the effective
26 date of revocation, termination or cancellation in accordance
27 with all other provisions of the contract.--However, if the
28 business of the grain dealer is sold to another licensed grain
29 dealer, deferred payment or deferred pricing contracts may
30 be assigned to the purchaser of the business. As used in
31 this section, delivery "delivery" means the transfer of title
32 to and possession of grain by the seller to the grain dealer
33 or to another person in accordance with the agreement of the
34 seller and the grain dealer.--As used in this section, payment;
35 and "payment" means the actual payment or tender of payment

1 by the grain dealer to the seller of the agreed purchase
2 price, or in the case of disputes as to sales of grain, the
3 undisputed portion of the purchase price without reduction
4 for any separate claim of the grain dealer against the seller.

3887 5 Sec. 10. Section 542.9, Code 1981, is amended to read
6 as follows:

7 542.9 INSPECTION OF PREMISES, BOOKS AND RECORDS. The
8 commission may inspect the premises used by any grain dealer
9 in the conduct of his or her business at any time--The, and
10 the books, accounts, records and papers of every such grain
11 dealer which pertain to grain purchases shall be subject to
12 inspection by the commission during ordinary business hours.
13 The commission shall cause the business premises and books,
14 accounts, records and papers of every grain dealer to be
15 inspected once during each twelve-month period, provided that
16 if a class 1 grain dealer elects to submit the unaudited
17 financial statement under section 542.3, subsection 4,
18 paragraph b, the commission shall cause the grain dealer to
19 be inspected twice during each twelve-month period. The
20 transporter of grain in transit shall have in-his-or-her
21 possession bills of lading or other documents covering such
22 the grain in-transit-and-such-documents-shall-be-available
23 for-inspection-by-the-commission-upon-request in his or her
24 possession, and shall present them to any law enforcement
25 officer or to a person designated as an enforcement officer
26 under section 542.13 on demand. Any-grain-dealer-licensed
27 in-this-state-who-does-not-have-a-place-of-business-within
28 the-state-upon-the-request-of-the-commission-shall-make
29 available-and-furnish-to-the-commission-at-any-reasonable
30 time-and-place-the-commission-may-set-all-such-books,accounts,
31 records-and-papers-of-grain-transactions-within-this-state.
32 Where there is good cause to believe that a person is engaged
33 without a license in the business of a grain dealer in this
34 state, the commission may inspect the books, papers, and
35 records of such the person which pertain to grain purchases.

1 If the grain dealer does not maintain a place of business
2 in this state, the commission is not required to inspect the
3 business premises of the grain dealer, and the grain dealer
4 shall submit all books, records and papers relating to grain
5 transactions occurring within this state to the commission
6 for purposes of an inspection required or permitted under
7 this section at any reasonable time and place, including the
8 offices of the commission during regular business hours, as
9 ordered by the commission or the director of the warehouse
10 division.

11 Sec. 11. Section 542.11, Code 1981, is amended to read
12 as follows:

13 542.11 PENALTIES--MISDEMEANOR INJUNCTIONS. Any person
14 who engages in business as a grain dealer without obtaining
15 a license or any person in violation of any other provision
16 of this chapter, or any grain dealer who refuses to permit
17 inspection of his or her premises, books, accounts or records
18 as provided in this chapter, shall be guilty of a simple mis-
19 demeanor.--Each day that any violation continues shall
20 constitute a separate offense.--Any person violating the
21 provisions of this chapter may be restrained by an injunction.

22 1. A person who knowingly submits false information to
23 or knowingly withholds information from the commission or
24 any of its employees when required to be submitted or main-
25 tained under this chapter, commits a fraudulent practice.

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

35 3. Except as provided in subsections 1 and 2, a person

1 who violates any provision of this chapter commits a simple
2 misdemeanor. With respect to a continuing violation, each
3 day that the violation continues is a separate offense.

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

3873
3867

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

10 NEW SECTION. CREDIT-SALE CONTRACTS.

11 1. A grain dealer shall not purchase grain by a credit-
12 sale contract except as provided in this section.

13 2. A grain dealer shall give written notice to the
14 commission prior to engaging in the purchase of grain by
15 credit-sale contracts. Notice shall be on forms provided
16 by the commission. The notice shall contain information
17 required by the commission.

18 3. All credit-sale contract forms in the possession of
19 a grain dealer shall have been permanently and consecutively
20 numbered at the time of printing of the forms. A grain dealer
21 shall maintain an accurate record of all credit-sale contract
22 forms and numbers obtained by that dealer. The record shall
23 include the disposition of each numbered form, whether by,
24 execution, destruction, or otherwise.

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

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

- 32 a. The seller's name and address.
- 33 b. The conditions of delivery.
- 34 c. The amount and kind of grain delivered.
- 35 d. The price per bushel or basis of value.

1 e. The date payment is to be made.
2 f. The duration of the credit-sale contract, which shall
3 not exceed twelve months from the date the contract is
4 executed.
5 6. Title to all grain sold by a credit-sale contract is
6 in the purchasing dealer as of the time the contract is
7 executed, unless the contract provides otherwise. The contract
8 must be signed by both parties and executed in duplicate.
9 One copy shall be retained by the grain dealer and one copy
10 shall be delivered to the seller. Upon revocation,
11 termination, or cancellation of a grain dealer license, the
12 payment date for all credit-sale contracts shall be advanced
13 to a date not later than thirty days after the effective date
14 of the revocation, termination, or cancellation, and the
15 purchase price for all unpriced grain shall be determined
16 as of the effective date of revocation, termination, or
17 cancellation in accordance with all other provisions of the
18 contract. However, if the business of the grain dealer is
19 sold to another licensed grain dealer, credit-sale contracts
20 may be assigned to the purchaser of the business.

586? 21 Sec. 13. Chapter 542, Code 1981, is amended by adding
22 the following new section:
23 NEW SECTION. CONFIDENTIALITY OF RECORDS. Notwithstanding
24 chapter 68A, all financial statements of grain dealers under
25 this chapter shall be kept confidential by the commission
26 and its agents and employees and are not subject to disclosure,
27 except as follows:

- 28 1. Upon waiver by the licensee.
- 29 2. In actions or administrative proceedings commenced
30 under this chapter or chapter 543.
- 31 3. When required by subpoena or court order.
- 32 4. Disclosure to law enforcement agencies in regard to
33 the detection and prosecution of public offenses.
- 34 5. When released to a bonding company approved by the
35 commission, or released to the United States department of

1 agriculture or any of its divisions.

2 Sec. 14. Chapter 542, Code 1981, is amended by adding
3 the following new section:

4 NEW SECTION. STANDARDIZATION OF RECORDS AND DOCUMENTS.

5 1. The commission may adopt rules specifying the form,
6 content and use of scale tickets, and credit-sale contracts.

7 All scale ticket forms in the possession of a grain dealer
8 shall have been permanently and consecutively numbered at
9 the time of printing. A grain dealer shall maintain an
10 accurate record of all scale ticket numbers. The record shall
11 include the disposition of each numbered form, whether issued,
12 destroyed, or otherwise disposed of.

13 2. A licensed grain dealer shall keep complete and accurate
14 records of all grain transactions. Records for the previous
15 six years shall be made available for inspection by the
16 commission.

3367 17 Sec. 15. Chapter 542, Code 1981, is amended by adding
18 the following new section:

19 NEW SECTION. BONDED GRAIN SELLERS.

20 1. A person may apply to the commission for a license
21 to operate as a bonded grain seller. The application shall
22 be on a form prescribed by the commission.

23 2. As a condition of the granting of a license under this
24 section, the applicant shall file with the commission a bond
25 payable to the state of Iowa with a corporate surety approved
26 by the commission in a penal sum of twenty-five thousand
27 dollars per license, conditioned that the grain seller owns
28 or controls, free of liens, any grain offered for sale.
29 Cancellation of bonds by a surety under this section shall
30 meet the requirements of section 542.4. The liability of
31 a surety on any bond under this section shall not accumulate
32 for each successive license period during which the bond is
33 in force.

34 3. The fee for a bonded grain seller's license shall be
35 two hundred dollars per year. All licenses shall terminate

1 on the thirtieth of June of each year. There shall be no
2 financial or net worth requirements for bonded grain sellers.
3 License fees for new licenses may be prorated by the commission
4 on a monthly basis.

3867

5 4. This section does not require a person to be licensed
6 to sell grain.

3867

7 Sec. 16. Chapter 542, Code 1981, is amended by adding
8 the following new section:

9 NEW SECTION. COOPERATIVE AGREEMENTS.

10 1. Notwithstanding the other provisions of this chapter,
11 the commission may enter into cooperative agreements with
12 other states for the purpose of making available to those
13 states the information acquired under the bonding, licensing,
14 and examination procedures of this chapter.

15 2. If a cooperative agreement is in effect under this
16 section, the bonding requirements of this chapter may be
17 satisfied by:

18 a. Filing with the commission evidence of a bond on file
19 with a state with which Iowa has a cooperative agreement as
20 provided for by this section.

21 b. Such bond shall be copayable to the state of Iowa for
22 the benefit of sellers of grain under chapter 542 in Iowa.

23 c. The bond shall be in an amount at least equal to the
24 amounts required by this chapter; provided, however, that
25 any bond required under this chapter for any financial
26 deficiency shall be in addition to the bond posted in any
27 other state.

28 Any bond required by this chapter may be made copayable
29 to any state with whom this state has entered into contracts
30 or agreements as authorized by this section, for the benefit
31 of sellers of grain in that state.

3867

32 Sec. 17. Chapter 542, Code 1981, is amended by adding
33 the following new section:

34 NEW SECTION. SHRINKAGE ADJUSTMENTS--DISCLOSURES--PENALTIES.

35 1. A person who, in connection with the receipt of corn

1 or soybeans for storage, processing, or sale, adjusts the
2 scale weight of the grain to compensate for the moisture
3 content of the grain shall compute the amount of the adjustment
4 by multiplying the scale weight of the grain by that factor
5 which results in a rate of adjustment of one and eighteen
6 hundredths percent of weight per one percent of moisture
7 content. The use of any rate of weight adjustment for moisture
8 content other than the one prescribed by this subsection is
9 a fraudulent practice. The person shall post on the business
10 premises in a conspicuous place notice of the rate of
11 adjustment for moisture content that is prescribed by this
12 subsection. Failure to make this disclosure is a simple
13 misdemeanor.

14 2. A person who, in connection with the receipt of grain
15 for storage, processing or sale, adjusts the quantity of the
16 grain received to compensate for losses to be incurred during
17 the handling, processing, or storage of the grain shall post
18 on the business premises in a conspicuous place notice of
19 the rate of adjustment to be made for this shrinkage. Failure
20 to make the required disclosure is a simple misdemeanor.

21 3. A person who adjusts the scale weight of corn or soy-
22 beans both for moisture content and for handling, processing,
23 or storage losses may combine the two adjustment factors into
24 a single factor and may use this resulting factor to compute
25 the amount of weight adjustment in connection with storage,
26 processing, or sale transactions, provided that the person
27 shall post on the business premises in a conspicuous place
28 a notice that discloses the moisture shrinkage factor
29 prescribed by subsection 1, the handling shrinkage factor
30 to be imposed, and the single factor that results from
31 combining these factors. Failure to make the required
32 disclosure is a simple misdemeanor.

33 Sec. 18. Section 543.1, Code 1981, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. "Credit-sale contract" means a contract

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

3557 6 Sec. 19. Section 543.2, Code 1981, is amended to read
7 as follows:

8 543.2 DUTIES AND POWERS OF THE COMMISSION. The commission
9 ~~is authorized to~~ may exercise general supervision over the
10 storage, warehousing, classifying according to grade or
11 otherwise, weighing, and certification of agricultural
12 products. The commission may inspect or cause to be inspected
13 any warehouse and. Inspections may be made at times and for
14 purposes as the commission determines. The commission shall
15 cause every licensed warehouse and its contents to be inspected
16 once in every twelve-month period, provided that if a class
17 1 warehouseman elects to submit the unaudited financial
18 statement under section 543.6, subsection 4, paragraph b,
19 the commission shall cause the warehouse to be inspected twice
20 in every twelve-month period. The commission may require
21 the filing of reports ~~describing any~~ relating to a warehouse
22 or ~~the~~ its operation thereof. If upon any ~~such~~ inspection
23 a deficiency is found to exist as to the quantity or quality
24 of agricultural products stored, as indicated on the
25 warehouseman's books and records according to official grain
26 standards, the commission ~~shall have the authority to, and~~
27 may require an employee of the commission to remain at the
28 licensed warehouse and supervise all operations ~~conducted~~
29 thereat involving agricultural products stored there under
30 ~~the provisions of~~ this chapter until the deficiency is
31 corrected. The commission ~~shall inspect or cause to be~~
32 ~~inspected every licensed warehouse and the contents thereof~~
33 ~~not less than once every six months and the commission shall~~
34 ~~have authority to~~ may make available to the United States
35 government, or any of its agencies, including the Commodity

1 Credit Corporation, the results of inspections made and
2 inspection reports submitted to it by employees of the
3 commission, upon payment to it of such charges as may be
4 determined by the commission, but in no event shall such the
5 charges shall not be less than the actual cost of such services
6 rendered in regard thereto, as determined by the commission.
7 The commission shall have authority to may enter into contracts
8 and agreements for such purpose and shall keep a record of
9 all money thus received. All such money shall be paid over
10 to the treasurer of state as miscellaneous receipts. The
11 commission may classify any warehouse in accordance with its
12 suitability for the storage of agricultural products and shall
13 specify in any license issued for the operation of any
14 warehouse the type or types and the quantity of agricultural
15 products which may be exclusively stored in such the warehouse.
16 The commission may prescribe, within the limitations of this
17 chapter, the duties of licensed warehousemen with respect
18 to the care of and responsibility for the contents of licensed
19 warehouses. Grain grades shall be determined under the
20 official grain standards. The commission may from time to
21 time publish such data in connection with the administration
22 of this chapter as may be of public interest. The commission
23 shall have the duty of administration of the further provisions
24 of administer this chapter.

3547 25 Sec. 20. Section 543.5, Code 1981, is amended by adding
26 the following new unnumbered paragraph:

27 NEW UNNUMBERED PARAGRAPH. The commission may adopt rules
28 specifying the form, content and use of scale tickets,
29 warehouse receipts, settlement sheets, daily position records,
30 shipping ledgers, and other documents used by licensed
31 warehouses. All scale ticket forms and warehouse receipt
32 forms in the possession of a warehouseman shall have been
33 permanently and consecutively numbered at the time of printing.
34 A warehouseman shall maintain an accurate record of the numbers
35 of these documents. The record shall include the disposition

1 of each form, whether issued, destroyed, or otherwise disposed
2 of. The commission may by rule require this use of pre-
3 numbered forms and recording for documents other than scale
4 tickets and warehouse receipts.

38475 Sec. 21. Section 543.6, Code 1981, is amended to read
6 as follows:

7 543.6 ISSUANCE OF LICENSE AND FINANCIAL RESPONSIBILITY.

8 1. The commission is authorized, upon application to it,
9 to issue to any warehouseman or to any person about to become
10 a warehouseman a license or licenses for the operation of
11 a 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 warehouses located~~
15 ~~in the same city and operated by the same warehouseman. A~~
16 single license to operate two or more warehouses located
17 within a twenty-five mile radius of a central office may be
18 issued, ~~but a separate fee shall be charged for each station.~~

19 2. The type of license required shall be determined as
20 follows:

21 a. A class 1 license is required if the storage capacity
22 of a warehouse is more than one hundred thousand bushels.

23 b. A class 2 license is required for a warehouse that
24 is not required to have a class 1 license.

25 3. An application for a warehouse license shall be
26 accompanied by a complete financial statement of the applicant
27 setting forth the assets, liabilities and net worth of the
28 applicant. The financial statement must be prepared according
29 to normally accepted accounting principles. Assets shall
30 be shown at original cost less depreciation. Upon ~~petition~~
31 ~~being filed with the commission~~ written request, the commission
32 or a designated employee may allow asset valuations in
33 accordance with a competent appraisal. ~~Deferred pricing~~
34 Unpriced contracts shall be shown as a liability and valued
35 at the applicable current market price of grain as of the

1 date the financial statement is prepared.

2 4. In order to receive and retain a class 1 license, the
3 applicant must have and maintain a net worth of at least
4 twenty-five thousand dollars or provide bond in addition to
5 that required by section 543.12 in the amount of two thousand
6 dollars for each one thousand dollars or fraction thereof
7 of net worth deficiency following conditions must be satisfied:

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

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

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

35 a. The warehouseman shall have and maintain a net worth

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

8 b. The warehouseman shall submit, as required by the com-
9 mission, a financial statement that is accompanied by the
10 report of a certified public accountant licensed in this state
11 that is based upon a review performed by the certified public
12 accountant.

13 6. The commission may adopt rules governing the timing
14 and form of financial statements to be submitted to it. The
15 commission may require additional information or verification
16 with respect to the financial resources of the applicant or
17 licensee and the applicant's or licensee's ability to maintain
18 the quantity and quality of stored grain.

19 7. If an applicant has had a license under chapter 542,
20 542A, or 543 revoked for cause within the past three years,
21 or has been convicted of a felony involving violations of
22 chapter 542, 542A, or 543, or is owned or controlled by a
23 person who has had a license so revoked or who has been so
24 convicted, the commission may deny a license to the applicant.

2867 25 Sec. 22. Section 543.8, Code 1981, is amended to read
26 as follows:

27 543.8 LICENSE TO SPECIFY TYPE AND QUANTITY OF PRODUCTS
28 WHICH MAY BE STORED. The commission shall determine with
29 respect to each application for a license whether the warehouse
30 or warehouses described in the application is or are suitable
31 for the proper and safe storage of the particular agricultural
32 product or products intended to be stored therein in the
33 quantities specified in the application, provided that no
34 warehouse shall be found to be suitable and safe for the
35 storage of bulk grain unless such warehouse is equipped with

1 a fixed or portable mechanical device of a type in common
2 use as an adjunct to the movement of bulk grain. Each license
3 issued for the operation of a single warehouse shall specify
4 the type or types and quantities of agricultural products
5 which may be stored in such warehouse. Each license issued
6 to a warehouseman for the operation of two or more warehouses
7 in-the-same-city shall specify with respect to each warehouse
8 the type or types and quantities of agricultural product which
9 may be stored in such warehouse. It shall be unlawful for
10 any licensed warehouseman to accept for storage or to store
11 in any licensed warehouse any agricultural product or products
12 other than the type or types and quantities specified in the
13 license for the operation of such warehouse.

3867

14 Sec. 23. Section 543.11, unnumbered paragraph 1, Code
15 1981, is amended to read as follows:

16 Whenever the commission shall determine that a bond filed
17 under the provisions of ~~section-543-12~~ this chapter and
18 approved by the commission, is, or has become, insufficient
19 to secure the faithful performance of the obligations of the
20 licensed warehouseman, or whenever the commission shall
21 determine that insurance is not fully provided as required
22 under section 543.15, it may require the licensed warehouseman
23 to provide additional bond or bonds or additional evidence
24 of insurance coverage so that the bond and insurance shall
25 conform with the requirements of ~~sections-543-12, 543-13,~~
26 ~~and-543-15~~ this chapter. If such additional insurance is
27 not provided within five days after receipt by the licensee
28 of notice by certified mail the license of the warehouseman
29 concerned shall be automatically suspended. If such additional
30 insurance is not filed within another ~~twenty-five~~ ten days,
31 the warehouse license shall be automatically revoked. If
32 additional bond is not provided within ~~thirty~~ a period as
33 set by the commission, but not to exceed twenty days after
34 receiving notice, ~~by-certified-mail~~ the warehouse license
35 shall be suspended. If such additional bond is not filed

1 within sixty ten days following suspension, the warehouse
2 license shall be automatically revoked. When a license is
3 so revoked, the commission shall notify each holder of an
4 outstanding warehouse receipt and all known persons who have
5 grain retained in open storage of such revocation. The
6 commission shall further notify each receipt holder and all
7 known persons who have grain retained in open storage that
8 the grain must be removed from the warehouse not later than
9 the thirtieth day following the initial revocation as herein
10 set forth. Such notice shall be by ordinary mail sent to
11 the last known address of each person having grain in storage
12 as provided in this section.

3874
3827 13 Sec. 24. Section 543.17, Code 1981, is amended to read
14 as follows:

15 543.17 RECEIVING BULK GRAIN AT LICENSED AND UNLICENSED
16 WAREHOUSES.

17 1. Any grain which has been received at any licensed
18 warehouse for which the actual sale price is not fixed and
19 proper documentation made or payment made shall be construed
20 to be grain held for storage within the meaning of this
21 chapter. Grain may be held in open storage or placed on
22 warehouse receipt. ~~Actual payment shall be made on all priced~~
23 ~~grain within thirty days unless a deferred payment or deferred~~
24 ~~pricing contract has been executed.~~ Warehouse receipts shall
25 be issued for all grain held in open storage, within six
26 months of delivery to the warehouse, unless the depositor
27 has signed a statement that the depositor does not desire
28 a warehouse receipt. The warehouseman's tariff shall apply
29 for any grain that is retained in open storage or under
30 warehouse receipt.

31 2. Bulk grain deposited with a licensed warehouseman for
32 processing, cleaning, drying, shipping for the account of
33 the depositor or any other purpose shall be removed within
34 thirty days or such grain shall be determined as stored grain
35 and the warehouseman's tariff charges shall apply.

1 3. Grain received on a scale ticket which fails to have
2 the price fixed and properly documented on the records of
3 the warehouseman shall be construed to be in open storage.

4 4. All grain whether open storage or having been placed
5 on warehouse receipt shall be covered by the warehouseman's
6 bond as required under the provisions of this chapter.

7 ~~2.--Notwithstanding any provisions of this section, a~~
8 ~~written agreement may be made between the seller and the~~
9 ~~licensed warehouseman for any bulk grain delivered to or~~
10 ~~stored at a licensed warehouse that payment or pricing and~~
11 ~~payment will be deferred to a later date.--Such agreement~~
12 ~~shall contain a statement informing the seller that the~~
13 ~~warehouseman shall not be required to carry insurance or bond~~
14 ~~on such grain for the benefit of the seller and that the~~
15 ~~payment for such grain becomes a common claim against the~~
16 ~~warehouseman.~~

17 ~~The agreement in addition to such other information as~~
18 ~~may be required shall contain the following:~~

- 19 ~~a.--The seller's or depositor's name and address.~~
- 20 ~~b.--The conditions of delivery.~~
- 21 ~~c.--The amount and kind of grain delivered.~~
- 22 ~~d.--The price per bushel or basis of value.~~
- 23 ~~e.--The date payment is to be made.~~

24 ~~Such agreement must be numbered and signed by both parties~~
25 ~~and executed in duplicate.--One copy shall be retained by~~
26 ~~the warehouseman and one copy shall be delivered to the seller.~~

27 ~~Grain received or purchased in storage under a deferred~~
28 ~~payment or deferred pricing contract under the provisions~~
29 ~~of this section shall be deemed to be warehouse-owned grain.~~

30 5. Any grain which has been received at any unlicensed
31 warehouse and for which the actual sale price has not been
32 fixed and payment made within thirty days from receipt of
33 the grain, unless covered by deferred payment or deferred
34 pricing a credit-sale contract, shall be construed to be
35 unlawful storage within the meaning of this chapter. Bulk

1 grain received at any unlicensed warehouse for any other
2 purpose must either be returned to the depositor or disposed
3 of by order of the depositor within thirty days from date
4 of actual deposit of the bulk grain.

5 6. If the depositor of bulk grain in an unlicensed
6 warehouse fails to sell the grain or orders other disposition
7 of the grain, the warehouseman may purchase the grain, if
8 otherwise allowed by law, on the thirtieth day after deposit
9 at not less than the local market price at the close of
10 business on the thirtieth day or return the grain to the
11 depositor by the thirtieth day.

12 3- 7. Every licensed warehouseman shall, on or before
13 July 1 of each year, send a statement for each holder of a
14 warehouse receipt covering grain held for more than one year
15 at that warehouse to his or her last known address. The
16 statement shall show the amount of all grain held pursuant
17 to warehouse receipt for such warehouse receipt holder and
18 the amount of any storage charges held by the licensed
19 warehouseman against that grain. However, a licensed
20 warehouseman need not prepare this annual statement for a
21 holder of a warehouse receipt, if the licensed warehouseman
22 prepares such statements monthly, quarterly or for any other
23 period more frequent than annually. Failure to prepare a
24 statement required by this subsection ~~shall be punishable~~
25 ~~by a civil fine not to exceed one hundred dollars~~ is a simple
26 misdemeanor. Violation of this section shall not constitute
27 grounds for suspension, revocation, or modification of the
28 license of anyone licensed under this chapter.

3867 29 Sec. 25. Section 543.18, Code 1981, is amended by adding
30 the following new unnumbered paragraph:

31 NEW UNNUMBERED PARAGRAPH. The original copy of every ware-
32 house receipt shall be imprinted with the signature of the
33 secretary of the commerce commission prior to issuance.

5390 34 Sec. 26. Section 543.33, Code 1981, is amended by striking
2867 35 the section and inserting in lieu thereof the following:

1 543.33 FEES. The commission shall charge the following
2 fees:

3 1. For the issuance or renewal of a license, a fee deter-
4 mined as follows:

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

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

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

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

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

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

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

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

24 2. For each inspection of a warehouse or station for the
25 purpose of licensing, a fee of twenty-five dollars.

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

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

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

32 All fees received by the commission shall be paid to the
33 treasurer of state for deposit in the state general fund.

34 License fees for new licenses shall be prorated by the commis-
35 sion on a monthly basis.

3747
3881

2967

1 Sec. 27. Section 543.36, Code 1981, is amended to read
2 as follows:

3 543.36 PENALTIES--MISDEMEANOR INJUNCTION. Every person
4 who violates or fails to comply with any of the provisions
5 of this chapter or to comply with any lawfully authorized
6 order, direction, demand, or rule or regulation of the
7 commission shall be guilty of a simple misdemeanor.

8 1. A person who knowingly withholds information from or
9 knowingly submits false information to the commission or any
10 of its employees in a document or a book, account, or record
11 required to be submitted or maintained under this chapter
12 commits a fraudulent practice.

13 2. A person who engages in business as a warehouseman
14 without obtaining a license, or who refuses to permit
15 inspection of licensed premises, or books, accounts, records
16 or other documents required by this chapter, or who uses a
17 scale ticket, warehouse receipt or other document which fails
18 to satisfy requirements established by the commission commits
19 a serious misdemeanor, except that a person who commits any
20 of these offenses after having been found guilty of the same
21 offense commits an aggravated misdemeanor.

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

26 4. A violation of this chapter, or a violation of chap-
27 ter 714 or 715 involving the business of a warehouseman, may
28 be restrained by injunction in an action brought by the
29 commerce commission.

30 Sec. 28. Section 543.37, Code 1981, is amended to read
31 as follows:

32 543.37 FAILURE TO PAY FEE. Failure to pay the annual
33 fee provided for in section 543.33 on or before the date the
34 same shall become due June 30 of the year for which due shall
35 cause a license to terminate. The annual fee shall become

1 ~~due on June 30 each year.~~ A warehouse license which has
2 ~~terminated~~ may be reinstated by the commission upon receipt
3 of a proper renewal application, ~~current financial statement,~~
4 ~~the renewal fee,~~ and a penalty fee in the amount of ~~ten~~ twenty-
5 ~~five dollars from the warehouse,~~ if such are filed within
6 thirty days from the date of termination of the warehouse
7 license. The commission may cancel the license upon request
8 of the licensee unless a complaint or information is filed
9 against the licensee alleging a violation of a provision of
10 this chapter.

11 Sec. 29. Chapter 543, Code 1981, is amended by adding
12 the following new section:

13 NEW SECTION. WAREHOUSEMAN'S OBLIGATION. A warehouseman
14 shall maintain at all times sufficient quantity and quality
15 of grain or other agricultural products to cover the ware-
16 houseman's obligation. A warehouseman shall not at any time
17 have less grain or other agricultural products in the ware-
18 house than the obligations to depositors.

19 Sec. 30. Chapter 543, Code 1981, is amended by adding
20 the following new section:

21 NEW SECTION. CONFIDENTIALITY OF RECORDS. Notwithstanding
22 the provisions of chapter 68A, all financial statements of
23 warehousemen under this chapter shall be kept confidential
24 by the commission and its agents and employees and are not
25 subject to disclosure except as follows:

- 26 1. Upon waiver by the licensee.
- 27 2. In actions or administrative proceedings commenced
28 under this chapter or chapter 542.
- 29 3. When required by subpoena or other court orders.
- 30 4. Disclosure to law enforcement agencies in regards to
31 the detection and prosecution of public offenses.
- 32 5. Where released to a bonding company approved by the
33 commission or to the United States department of agriculture
34 or any of their divisions.

35 Sec. 31. Chapter 543, Code 1981, is amended by adding

1 the following new section:

2 NEW SECTION. SHRINKAGE ADJUSTMENTS--DISCLOSURES--PENALTIES.

3 1. A person who, in connection with the receipt of corn
4 or soybeans for storage, processing, or sale, adjusts the
5 scale weight of the grain to compensate for the moisture
6 content of the grain shall compute the amount of the adjustment
7 by multiplying the scale weight of the grain by that factor
8 which results in a rate of adjustment of one and eighteen
9 hundredths percent of weight per one percent of moisture
10 content. The use of any rate of weight adjustment for moisture
11 content other than the one prescribed by this subsection is
12 a fraudulent practice. The person shall post on the business
13 premises in a conspicuous place notice of the rate of
14 adjustment for moisture content that is prescribed by this
15 subsection. Failure to make this disclosure is a simple
16 misdemeanor.

17 2. A person who, in connection with the receipt of grain
18 for storage, processing or sale, adjusts the quantity of the
19 grain received to compensate for losses to be incurred during
20 the handling, processing, or storage of the grain shall post
21 on the business premises in a conspicuous place notice of
22 the rate of adjustment to be made for this shrinkage. Failure
23 to make the required disclosure is a simple misdemeanor.

24 3. A person who adjusts the scale weight of corn or soy-
25 beans both for moisture content and for handling, processing,
26 or storage losses may combine the two adjustment factors into
27 a single factor and may use this resulting factor to compute
28 the amount of weight adjustment in connection with storage,
29 processing, or sale transactions, provided that the person
30 shall post on the business premises in a conspicuous place
31 a notice that discloses the moisture shrinkage factor
32 prescribed by subsection 1, the handling shrinkage factor
33 to be imposed, and the single factor that results from
34 combining these factors. Failure to make the required
35 disclosure is a simple misdemeanor.

SENATE AMENDMENT TO HOUSE FILE 841

H-4425

1 Amend House File 841 as amended, passed and
2 reprinted by the House as follows:

3 1. Page 1, line 29, by striking the words "at
4 a date subsequent to" and inserting in lieu thereof
5 the words "more than thirty days after".

6 2. Page 6, line 27, by striking the word "amended"
7 and inserting in lieu thereof the words "temporarily
8 amended, commencing on the effective date of this
9 Act and until July 1, 1983,".

10 3. Page 13, line 20, by striking the word "person"
11 and inserting in lieu thereof the word "producer".

12 4. Page 14, by inserting after line 4 the
13 following:

14 "____. A producer who is licensed under this section
15 shall not sell any grain except grain that is owned
16 by the producer and that is produced on land owned,
17 leased or operated by the producer, including land
18 located outside of this state. Violation of this
19 subsection is grounds for revocation of the license,
20 and the violator shall be disqualified from relicensure
21 under this section for a period of one year after
22 the date the revocation is effective."

23 5. Page 16, line 2, by striking the words "at
24 a date subsequent to" and inserting in lieu thereof
25 the words "more than thirty days after".

26 6. Striking page 24, line 34, through page 25,
27 line 1, and inserting in lieu thereof the following:

28 "Sec. 26. Chapter 543, Code 1981, is temporarily
29 amended commencing on the effective date of this Act
30 and until July 1, 1983, by adding the following
31 temporary new section:

32 TEMPORARY NEW SECTION. FEES. The commission shall
33 charge the following".

34 7. Page 25, by inserting after line 35 the
35 following:

36 "This section supersedes section 543.33, commencing
37 on the effective date of this Act and until July 1,
38 1983."

39 8. Page 28, by inserting after line 35 the
40 following:

41 "Sec. _____. It is the intent of the general assembly
42 that sections 7 and 26 of this Act shall have temporary
43 effect only, and that sections 542.6 and 543.33, Code
44 1981, as they existed prior to amendment by this Act
45 shall be the law of this state on and after July 1,
46 1983."

47 9. Renumbering sections and subsections as
48 necessary.

49 10. Amend the title, line 2, by inserting after
50 the word "penalties" the words and figures ", and

Page 2

1 providing for certain temporary increases in fees
2 to be effective until July 1, 1982".

S-3873

1 Amend House File 841 as amended, passed and re-
2 printed by the House as follows:

3 1. Page 11, by inserting after line 7 the
4 following:

5 "Sec. ____ Chapter 542, Code 1981, is amended
6 by adding the following new section:

7 NEW SECTION. TRUST ESTABLISHED.

8 1. All grain purchased by a grain dealer in cash
9 sales, and all inventories of and receivables or
10 proceeds from grain and grain products derived from
11 grain purchased in cash sales shall be held by the
12 grain dealer in trust for the benefit of unpaid cash
13 sellers of the grain until full payment has been made
14 to these unpaid cash sellers.

15 2. A cash seller shall lose the benefit of the
16 trust established under subsection 1 unless the cash
17 seller preserves the trust by giving written notice
18 to the grain dealer and to the commerce commission
19 as follows:

20 a. If an instrument purporting to constitute
21 payment is received by the unpaid cash seller, notice
22 shall be given within fifteen days after receipt by
23 the cash seller of notice of dishonor or nonpayment
24 of the instrument.

25 b. If an instrument purporting to constitute
26 payment has not been received by the unpaid cash
27 seller, notice shall be given within thirty days after
28 the last date for making payment, as provided in
29 section 542.8.

30 3. A notice is sufficient for purposes of
31 subsection 2 if it states the name of the unpaid cash
32 seller, the fact that payment has not been made, the
33 date of sale of the grain, and the amount owed by
34 the grain dealer.

35 4. For purposes of this section, a cash sale is
36 a sale in which the seller does not expressly extend
37 credit to the grain dealer. Acceptance of a check
38 or other instrument that is post-dated ten days or
39 less after the date of sale is not an extension of
40 credit for purposes of this section."

S-3873 FILED
MAY 22, 1981
WITHDRAWN (p. 1848)

BY RAY TAYLOR

S-3884

1 Amend House File 841 as amended, passed and
2 reprinted by the House as follow:

3 1. Page 6, line 27, by striking the word "amended"
4 and inserting in lieu thereof the words "temporarily
5 amended, commencing on the effective date of this
6 Act and until July 1, 1983,".

7 2. By striking page 24, line 34, through page
8 25, line 1, and inserting in lieu thereof the
9 following:

10 "Sec. 26. Chapter 543, Code 1981, is temporarily
11 amended commencing on the effective date of this Act
12 and until July 1, 1983, by adding the following
13 temporary new section:

14 TEMPORARY NEW SECTION. FEES. The commission shall
15 charge the following"

16 3. Page 25, by inserting after line 35 the
17 following:

18 "This section supersedes section 543.33, commencing
19 on the effective date of this Act and until July 1,
20 1983."

21 4. Page 28, by inserting after line 35 the
22 following:

23 "Sec. ____ . It is the intent of the general assembly
24 that sections 7 and 26 of this Act shall have temporary
25 effect only, and that sections 542.6 and 543.33, Code
26 1981, as they existed prior to amendment by this Act
27 shall be the law of this state on and after July 1,
28 1983."

29 5. Amend the title, line 2, by inserting after
30 the word "penalties" the words and figures ", and
31 providing for certain temporary increases in fees
32 to be effective until July 1, 1983".

S-3884 FILED & ADOPTED
MAY 22, 1981 (1847)

BY BASS VAN GILST
BILL HUTCHINS
EDGAR H. HOLDEN

HOUSE FILE 841

S-3874

1 Amend House File 841 as amended, passed and re-
2 printed by the House as follows:

3 1. Page 22, by inserting after line 12 the
4 following:

5 "Sec. ____ . Section 543.12, Code 1981, is amended
6 by adding the following new unnumbered paragraph:

7 NEW UNNUMBERED PARAGRAPH. The bond required under
8 this section shall not apply to a breach of any
9 obligation that arises with respect to grain that
10 is owned wholly or in part by the warehouseman
11 submitting the bond or by another warehouseman, whether
12 or not licensed under this chapter, and section 543.14
13 does not authorize a claim against the bond by any
14 person whose injury arises out of an interest in or
15 a claim against grain that is owned wholly or in part
16 by the warehouseman submitting the bond or by another
17 warehouseman. A warehouseman may acquire a separate
18 bond to cover obligations with respect to grain owned
19 by the warehouseman or by another warehouseman, but
20 this chapter does not apply to a bond so acquired."

21 2. By renumbering sections of the bill.

S-3874 FILED
MAY 22, 1981

BY RAY TAYLOR

WITHDRAWN (1848)

HOUSE FILE 841

S-3867

1 Amend House File 841 as amended, passed and
2 reprinted by the House, as follows:

3 1. Page 1, line 2, by striking the word "amended"
4 and inserting in lieu thereof the words "temporarily
5 amended, commencing on the effective date of this
6 Act and until July 1, 1983,".

7 2. Page 1, by striking lines 18 through 21 and
8 inserting in lieu thereof the following:

B 9 "Sec. 2. Section 542.1, Code 1981, is temporarily
10 amended, commencing on the effective date of this
11 Act and until July 1, 1983, by adding the following
12 temporary new subsection:

13 TEMPORARY NEW SUBSECTION. "Producer" means the
14 owner, tenant, or operator of".

15 3. Page 1, by striking lines 25 through 27 and
16 inserting in lieu thereof the following:

17 "Sec. 3. Section 542.1, Code 1981, is temporarily
18 amended, commencing on the effective date of this
19 Act and until July 1, 1983, by adding the following
20 temporary new subsection:

21 TEMPORARY NEW SUBSECTION. "Credit-sale contract"
22 means a contract".

A 23 4. Page 1, line 29, by striking the words "at
24 a date subsequent to" and inserting in lieu thereof
25 the words "more than thirty days after".

26 5. Page 1, line 33, by striking the word "amended"
27 and inserting in lieu thereof the words "temporarily
28 amended, commencing on the effective date of this
29 Act and until July 1, 1983,".

30 6. Page 5, line 3, by striking the word "amended"
31 and inserting in lieu thereof the words "temporarily
32 amended, commencing on the effective date of this
33 Act and until July 1, 1983,".

B 34 7. Page 5, line 35, by striking the word "amended"
35 and inserting in lieu thereof the words "temporarily
36 amended, commencing on the effective date of this
37 Act and until July 1, 1983,".

38 8. Page 6, line 27, by striking the word "amended"
39 and inserting in lieu thereof the words "temporarily
40 amended, commencing on the effective date of this
41 Act and until July 1, 1983,".

42 9. Page 7, line 18, by striking the word "amended"
43 and inserting in lieu thereof the words "temporarily
44 amended, commencing on the effective date of this
45 Act and until July 1, 1983,".

46 10. Page 8, line 1, by striking the word "amended"
47 and inserting in lieu thereof the words "temporarily
48 amended, commencing on the effective date of this
49 Act and until July 1, 1983,".

50 11. Page 9, line 5, by striking the word "amended"

1 and inserting in lieu thereof the words "temporarily
2 amended, commencing on the effective date of this
3 Act and until July 1, 1983,".

4 12. Page 10, line 11, by striking the word
5 "amended" and inserting in lieu thereof the words
6 "temporarily amended, commencing on the effective
7 date of this Act and until July 1, 1983,".

8 13. Page 11, by striking lines 8 through 10 and
9 inserting in lieu thereof the following:
10 "Sec. 12. Chapter 542, Code 1981, is temporarily
11 amended, commencing on the effective date of this
12 Act and until July 1, 1983, by adding the following
13 temporary new section:

14 TEMPORARY NEW SECTION. CREDIT-SALE CONTRACTS."

15 14. Page 12, by striking lines 21 through 23 and
16 inserting in lieu thereof the following:

17 "Sec. 13. Chapter 542, Code 1981, is temporarily
18 amended, commencing on the effective date of this
19 Act and until July 1, 1983, by adding the following
20 temporary new section:

21 TEMPORARY NEW SECTION. CONFIDENTIALITY OF RECORDS.
22 Notwithstanding".

23 15. Page 13, by striking lines 2 through 4 and
24 inserting in lieu thereof the following:

25 "Sec. 14. Chapter 542, Code 1981, is temporarily
26 amended, commencing on the effective date of this
27 Act and until July 1, 1983, by adding the following
28 temporary new section:

29 TEMPORARY NEW SECTION. STANDARDIZATION OF RECORDS
30 AND DOCUMENTS."

31 16. Page 13, by striking lines 17 through 19 and
32 inserting in lieu thereof the following:

33 "Sec. 15. Chapter 542, Code 1981, is temporarily
34 amended, commencing on the effective date of this
35 Act and until July 1, 1983, by adding the following
36 temporary new section:

37 TEMPORARY NEW SECTION. BONDED GRAIN SELLERS."

38 17. Page 13, line 20, by striking the word "person"
39 and inserting in lieu thereof the word "producer".

40 18. Page 14, by inserting after line 4 the
41 following:

42 "____. A producer who is licensed under this section
43 shall not sell any grain except grain that is owned
44 by the producer and that is produced on land owned,
45 leased or operated by the producer, including land
46 located outside of this state. Violation of this
47 subsection is grounds for revocation of the license,
48 and the violator shall be disqualified from relicensure
49 under this section for a period of one year after
50 the date the revocation is effective."

S-3867
PAGE 3

1 19. Page 14, by striking lines 7 through 9 and
2 inserting in lieu thereof the following:
3 "Sec. 16. Chapter 542, Code 1981, is temporarily
4 amended, commencing on the effective date of this
5 Act and until July 1, 1983, by adding the following
6 temporary new section:

7 TEMPORARY NEW SECTION. COOPERATIVE AGREEMENTS."

8 20. Page 14, by striking lines 32 through 34 and
9 inserting in lieu thereof the following:

10 "Sec. 17. Chapter 542, Code 1981, is temporarily
11 amended, commencing on the effective date of this
12 Act and until July 1, 1983 by adding the following
13 temporary new section:

14 TEMPORARY NEW SECTION. SHRINKAGE ADJUSTMENTS--
15 DISCLOSURE--PENALTIES."

16 21. Page 15, by striking lines 33 through 35 and
17 inserting in lieu thereof the following:

18 "Sec. 18. Section 543.1, Code 1981, is temporarily
19 amended, commencing on the effective date of this
20 Act and until July 1, 1983, by adding the following
21 temporary new subsection:

22 TEMPORARY NEW SUBSECTION. "Credit-sale contract"
23 means a contract"

24 22. Page 16, line 2, by striking the words "at
25 a date subsequent to" and inserting in lieu thereof
26 the words "more than thirty days after".

27 23. Page 16, line 6, by striking the word "amended"
28 and inserting in lieu thereof the words "temporarily
29 amended, commencing on the effective date of this
30 Act and until July 1, 1983,".

31 24. Page 17, by striking lines 25 through 27 and
32 inserting in lieu thereof the following:

33 "Sec. 20. Section 543.5, Code 1981, is temporarily
34 amended, commencing on the effective date of this
35 Act and until July 1, 1983, by adding the following
36 temporary new unnumbered paragraph:

37 TEMPORARY NEW UNNUMBERED PARAGRAPH. The commission
38 may adopt rules".

39 25. Page 18, line 5, by striking the word "amended"
40 and inserting in lieu thereof the words "temporarily
41 amended, commencing on the effective date of this
42 Act and until July 1, 1983,".

43 26. Page 20, line 25, by striking the word
44 "amended" and inserting in lieu thereof the words
45 "temporarily amended, commencing on the effective
46 date of this Act and until July 1, 1983,".

47 27. Page 21, line 15, by striking the word
48 "amended" and inserting in lieu thereof the words
49 "temporarily amended, commencing on the effective
50 date of this Act and until July 1, 1983,".

1 28. Page 22, line 13, by striking the word
2 "amended" and inserting in lieu thereof the words
3 "temporarily amended, commencing on the effective
4 date of this Act and until July 1, 1983,".

5 29. Page 24, by striking lines 29 through 31 and
6 inserting in lieu thereof the following:

7 "Sec. 25. Section 543.18, Code 1981, is temporarily
8 amended, commencing on the effective date of this
9 Act and until July 1, 1983, by adding the following
10 temporary new unnumbered paragraph:

11 TEMPORARY NEW UNNUMBERED PARAGRAPH. The original
12 copy of every ware-".

13 30. By striking page 24, line 34 through page
14 25, line 1, and inserting in lieu thereof the
15 following:

16 "Sec. 26. Chapter 543, Code 1981, is temporarily
17 amended, commencing on the effective date of this
18 Act and until July 1, 1983, by adding the following
19 temporary new section:

20 TEMPORARY NEW SECTION. FEES. The commission shall
21 charge the following".

22 31. Page 25, by inserting after line 35 the
23 following:

24 "This section supersedes section 543.33 commencing
25 on the effective date of this Act and until July 1,
26 1983."

27 32. Page 26, line 1, by striking the word "amended"
28 and inserting in lieu thereof the words "temporarily
29 amended, commencing on the effective date of this
30 Act and until July 1, 1983,".

31 33. Page 26, line 30, by striking the word
32 "amended" and inserting in lieu thereof the words
33 "temporarily amended, commencing on the effective
34 date of this Act and until July 1, 1983,".

35 34. Page 27, by striking lines 11 through 13 and
36 inserting in lieu thereof the following:

37 "Sec. 29. Chapter 543, Code 1981, is temporarily
38 amended, commencing on the effective date of this
39 Act and until July 1, 1983, by adding the following
40 temporary new section:

41 TEMPORARY NEW SECTION. WAREHOUSEMAN'S OBLIGATION.
42 A warehouseman".

43 35. Page 27, by striking lines 19 through 21 and
44 inserting in lieu thereof the following:

45 "Sec. 30. Chapter 543, Code 1981, is temporarily
46 amended, commencing on the effective date of this
47 Act and until July 1, 1983, by adding the following
48 temporary new section:

49 TEMPORARY NEW SECTION. CONFIDENTIALITY OF RECORDS.
50 Notwithstanding".

SENATE 6
MAY 23, 1981

S-3867
PAGE 5

1 36. By striking page 27, line 35 through page
2 28, line 2 and inserting in lieu thereof the following:

3 "Sec. 31. Chapter 543, Code 1981, is temporarily
4 amended, commencing on the effective date of this
5 Act and until July 1, 1983, by adding the following
6 temporary new section:

B 7 TEMPORARY NEW SECTION. SHRINKAGE ADJUSTMENTS--
8 DISCLOSURES--PENALTIES."

9 37. Page 28, by inserting after line 35 the
10 following:

11 "Sec. _____. It is the intent of the general assembly
12 in enacting this Act that all of the provisions of
13 this Act shall have temporary effect only, and that
14 the laws of this state as they existed prior to amend-
15 ment by the provisions of this Act shall be the laws
16 of this state on and after July 1, 1983."

A 17 38. By renumbering sections and subsections as
18 necessary.

B 19 39. Amend the title, line 2, by inserting after
20 the word "penalties" the words ", to be of temporary
21 effect until July 1, 1983".

S-3867 FILED
MAY 21, 1981

DIVISION A--ADOPTED (p. 1835)

DIVISION B--LOST

DIVISION C--WITHDRAWN (p. 1845)

BY COMMITTEE ON WAYS AND MEANS
ROLF V. CRAFT, CHAIRPERSON

HOUSE FILE 841

AN ACT

RELATING TO TRANSACTIONS INVOLVING THE STORAGE OR SALE OF GRAIN, AND PROVIDING PENALTIES, AND PROVIDING FOR CERTAIN TEMPORARY INCREASES IN FEES TO BE EFFECTIVE UNTIL JULY 1, 1983.

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

Section 1. Section 542.1, subsection 3, Code 1981, is amended to read as follows:

3. "~~Grain dealer~~" ~~shall mean any person who is engaged in the business of buying grain for resale or any merchandiser means a person who buys during any calendar month five hundred bushels of grain or more from the producers of the grain for purposes of resale, milling, or processing.~~ However, "grain dealer" shall not be construed to mean a producer of grain buying grain for his or her own use as seed or feed; a person solely engaged in buying or selling grain future contracts on the board of trade; grain future contracts; a person who purchases grain only for sale in a registered feed; a person engaged in the business of selling agricultural seeds regulated by chapter 199; a person buying or selling grain only as a farm manager; or an executor, administrator, trustee, guardian, or conservator of an estate; or a bargaining agent as defined in section 542A.1.

Sec. 2. Section 542.1, subsection 4, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

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

Sec. 3. Section 542.1, Code 1981, is amended by adding the following new subsection:

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

Sec. 4. Section 542.3, Code 1981, is amended to read as follows:

542.3 LICENSE REQUIRED--FINANCIAL RESPONSIBILITY.

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

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

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

b. A class 2 license is required for any grain dealer not holding a class 1 license. A class 2 licensee whose purchases from producers during a fiscal year exceed two hundred fifty thousand dollars in value shall apply immediately for a class 1 license. If a class 1 license is denied, the person immediately shall cease doing business as a grain dealer.

3. Each An application for a license to engage in business as a grain dealer shall be filed with the commission and shall be in a form prescribed by the commission. The application shall include the name of the applicant, its principal officers

if the applicant is a corporation or the active members of a partnership if the applicant is a partnership and the location of the principal office or place of business of the applicant. A separate license shall be required for each location at which the records are normally-kept maintained for transactions of the grain dealer. The application shall also list the number of trucks or tractor trailer units that will be used in the transportation of grain purchased for resale under this chapter. The application shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and the net worth of the applicant. The financial statement must be prepared according to generally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon a petition written request filed with the commission, the commission or a designated employee may allow asset valuations in accordance with a competent appraisal. Deferred-pricing Unpriced contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared.

4. In order to receive and retain a class 1 license the applicant must have and maintain a net worth of at least twenty-five thousand dollars or provide bond in addition to that required by section 542.4 in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency following conditions must be satisfied:

a. The grain dealer shall have and maintain a net worth of at least fifty thousand dollars, or maintain a bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 1 grain dealer if the person has a net worth of less than twenty-five thousand dollars. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise required under this chapter.

b. The grain dealer shall submit, as required by the commission, a financial statement that is accompanied by an un-

qualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the commission may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the commission. The grain dealer may elect, however, to submit a financial statement satisfying the requirements of subsection 5, paragraph b, in lieu of the audited financial statement specified in this paragraph, and if a grain dealer makes this election the commission shall cause the grain dealer to be inspected twice during each twelve-month period in the manner provided in section 542.9.

c. The grain dealer shall have and maintain current assets equal to at least ninety percent of current liabilities or provide bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of current assets lacking to meet this minimum. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise permitted or required under this chapter.

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

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

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

c. The grain dealer shall have and maintain current assets equal to at least ninety percent of current liabilities or provide bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of current assets lacking to meet this minimum. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise permitted or required under this chapter.

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

Sec. 5. Section 542.4, Code 1981, is amended to read as follows:

542.4 BOND REQUIRED. Any person applying An applicant for a license to operate as a grain dealer in accordance with this chapter shall, as a condition to the granting of the license, file with the commission a bond payable to the state of Iowa with a corporate surety approved by the commission in a penal sum of twenty-five thousand dollars per license conditioned that the applicant will pay the purchase price of any grain to the seller, and that the grain dealer owns or controls, free of liens, any grain which he or she offers for sale producer; provided that the aggregate liability of the surety to such persons shall in no event exceed the sum of such bond. The bond for each class 1 license shall be in the penal sum of fifty thousand dollars. The bond for each class 2 license shall be in the penal sum of twenty-five thousand dollars. One bond, cumulative as to minimum requirements, shall be required where a person has multiple licenses more than one license, but in no event shall the total amount of bond required by this section exceed one hundred thousand dollars three hundred thousand dollars for a class 1 licensee, or one hundred fifty thousand dollars for a class 2 licensee. No bond shall be canceled by a surety before at least sixty days' notice by certified mail to the commission and the grain dealer. The liability of the surety

shall cover ~~all purchases and transactions~~ made by the grain dealer during the time the bond is in force. A grain dealer's bond filed with this commission shall be in continuous force until canceled by the surety. The liability of the surety on any bond required by the provisions of this chapter shall not accumulate for each successive license period during which the bond is in force.

Sec. 6. Section 542.5, Code 1981, is amended to read as follows:

542.5 LICENSE. Upon the filing of the application and compliance with the terms and conditions of this chapter and rules of the commission, the commission shall issue a license to the applicant. The license shall terminate on the thirtieth of June of each year. A grain dealer's license may be renewed annually by the filing of a renewal fee, ~~a current financial statement~~ and a renewal application on a form prescribed by the commission. An application for renewal shall be received by the commission before the thirtieth of June. A grain dealer license which has terminated may be reinstated by the commission upon receipt of a proper renewal application, ~~a current financial statement,~~ the renewal fee, and penalty fee in the amount of ~~ten~~ fifty dollars from the grain dealer, provided that such materials are filed within thirty days from the date of termination of the grain dealer license. The commission may cancel a license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

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

Sec. 7. Section 542.6, Code 1981, is temporarily amended, commencing on the effective date of this Act and until July 1, 1983, to read as follows:

542.6 FEES. The commission shall collect fees as follows the following fees, for deposit in the general fund:

1. For the issuance or renewal of a license, twenty-five dollars per year or fraction of a year two hundred dollars per year for a class 1 license, and eighty-five dollars per year for a class 2 license. The commission shall prorate the annual fee on a monthly basis for licenses issued for less than a full year.

2. For renewal of license, twenty-five dollars per year. For the inspection of a class 1 grain dealer, one hundred fifty dollars, but if the class 1 grain dealer is subject to a second inspection during any twelve-month period pursuant to section 542.3, subsection 4, paragraph b, the fee for the second inspection shall be seventy-five dollars; and for the inspection of a class 2 grain dealer, sixty-five dollars.

3. An annual registration fee, to be determined by the commission, of not less than five dollars nor more than ten fifteen dollars for each vehicle used by the license holder in the transporting of grain purchased under this chapter.

4. A fee of one dollar will be charged ten dollars for issuance of each duplicate replacement identification plate to be used on any vehicle.

5. All fees collected by the commission under this chapter shall be deposited in the general fund of the state.

Sec. 8. Section 542.7, Code 1981, is amended to read as follows:

542.7 POSTING OF LICENSE AND REGISTRATION. The grain dealer's license shall be posted in a conspicuous place location in the place of business. Each vehicle used by a license holder shall be registered with the commission and equipped with a special decal or other registration identification plate as prescribed by the commission so that the decal plate will be readily visible. A grain dealer's license is not transferable. The registration identification plate shall not be transferred from one vehicle to another, except in case of destruction or other disposition of the vehicle previously bearing the identification. All transfers

must first be approved by the commission. If a registration an identification plate for a vehicle becomes defaced or destroyed, a duplicate shall be obtained the licensee shall request a replacement from the commission, which shall be issued upon request and payment of the fee.

Sec. 9. Section 542.8, Code 1981, is amended to read as follows:

542.8 PAYMENT. A person licensed as a grain dealer shall pay the purchase price to the owner or his or her agent for grain upon delivery or demand of the owner or agent, but not later than thirty days after delivery by the owner or agent unless in accordance with the terms of a duly executed deferred payment or deferred pricing contract credit sale contract that satisfies the requirements of this chapter. The contract in addition to such other information as may be required shall contain the following:

1. The seller's name and address.
2. The conditions of delivery.
3. The amount and kind of grain delivered.
4. The price per bushel or basis of value.
5. The date payment is to be made.

The contract must be numbered and signed by both parties and executed in duplicate. One copy shall be retained by the grain dealer and one copy shall be delivered to the seller. Upon revocation, termination, or cancellation of a grain dealer license, the payment date for all deferred payment or deferred pricing contracts shall be advanced to a date not later than thirty days after the effective date of such revocation, termination or cancellation and the purchase price for all unpriced grain shall be determined as of the effective dates of revocation, termination or cancellation in accordance with all other provisions of the contract. However, if the business of the grain dealer is sold to another licensed grain dealer, deferred payment or deferred pricing contracts may be assigned to the purchaser of the business. As used in this section, delivery "delivery" means the transfer of title to and possession of grain by the seller to the grain dealer

or to another person in accordance with the agreement of the seller and the grain dealer. ~~As used in this section, payment, and "payment"~~ means the actual payment or tender of payment by the grain dealer to the seller of the agreed purchase price, or in the case of disputes as to sales of grain, the undisputed portion of the purchase price without reduction for any separate claim of the grain dealer against the seller.

Sec. 10. Section 542.9, Code 1981, is amended to read as follows:

542.9 INSPECTION OF PREMISES, BOOKS AND RECORDS. The commission may inspect the premises used by any grain dealer in the conduct of his or her business at any time. ~~The, and the books, accounts, records and papers of every such grain dealer which pertain to grain purchases shall be subject to inspection by the commission during ordinary business hours. The commission shall cause the business premises and books, accounts, records and papers of every grain dealer to be inspected once during each twelve-month period, provided that if a class 1 grain dealer elects to submit the unaudited financial statement under section 542.3, subsection 4, paragraph b, the commission shall cause the grain dealer to be inspected twice during each twelve-month period.~~ The transporter of grain in transit shall have ~~in his or her possession bills of lading or other documents covering such the grain in transit and such documents shall be available for inspection by the commission upon request in his or her possession, and shall present them to any law enforcement officer or to a person designated as an enforcement officer under section 542.13 on demand. Any grain dealer licensed in this state who does not have a place of business within the state upon the request of the commission shall make available and furnish to the commission at any reasonable time and place the commission may set all such books, accounts, records and papers of grain transactions within this state.~~ Where there is good cause to believe that a person is engaged without a license in the business of a grain dealer in this state, the commission may inspect the books, papers, and records of ~~such~~ the person which pertain to grain purchases.

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

Sec. 11. Section 542.11, Code 1981, is amended to read as follows:

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

1. A person who knowingly submits false information to or knowingly withholds information from the commission or any of its employees when required to be submitted or maintained under this chapter, commits a fraudulent practice.
2. A person who engages in business as a grain dealer without obtaining a license, or who refuses to permit inspection of licensed premises, or books, accounts, records, or other documents required by this chapter, or who uses a scale ticket, or credit-sale contract that fails to satisfy requirements established by the commission commits a serious misdemeanor, except that a person who commits any of these offenses after having been found guilty of the same offense commits an aggravated misdemeanor.
3. Except as provided in subsections 1 and 2, a person who violates any provision of this chapter commits a simple misdemeanor. With respect to a continuing violation, each day that the violation continues is a separate offense.

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

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

NEW SECTION. CREDIT-SALE CONTRACTS.

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

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

3. All credit-sale contract forms in the possession of a grain dealer shall have been permanently and consecutively numbered at the time of printing of the forms. A grain dealer shall maintain an accurate record of all credit-sale contract forms and numbers obtained by that dealer. The record shall include the disposition of each numbered form, whether by execution, destruction, or otherwise.

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

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

- a. The seller's name and address.
- b. The conditions of delivery.
- c. The amount and kind of grain delivered.
- d. The price per bushel or basis of value.
- e. The date payment is to be made.
- f. The duration of the credit-sale contract, which shall

not exceed twelve months from the date the contract is executed.

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

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

NEW SECTION. CONFIDENTIALITY OF RECORDS. Notwithstanding chapter 68A, all financial statements of grain dealers under this chapter shall be kept confidential by the commission and its agents and employees and are not subject to disclosure except as follows:

1. Upon waiver by the licensee.
2. In actions or administrative proceedings commenced under this chapter or chapter 543.
3. When required by subpoena or court order.
4. Disclosure to law enforcement agencies in regard to the detection and prosecution of public offenses.
5. When released to a bonding company approved by the commission, or released to the United States department of agriculture or any of its divisions.

Sec. 14. Chapter 542, Code 1981, is amended by adding the following new section:

NEW SECTION. STANDARDIZATION OF RECORDS AND DOCUMENTS.

1. The commission may adopt rules specifying the form, content and use of scale tickets, and credit-sale contracts.

All scale ticket forms in the possession of a grain dealer shall have been permanently and consecutively numbered at the time of printing. A grain dealer shall maintain an accurate record of all scale ticket numbers. The record shall include the disposition of each numbered form, whether issued, destroyed, or otherwise disposed of.

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

Sec. 15. Chapter 542, Code 1981, is amended by adding the following new section:

NEW SECTION. BONDED GRAIN SELLERS.

1. A producer may apply to the commission for a license to operate as a bonded grain seller. The application shall be on a form prescribed by the commission.

2. As a condition of the granting of a license under this section, the applicant shall file with the commission a bond payable to the state of Iowa with a corporate surety approved by the commission in a penal sum of twenty-five thousand dollars per license, conditioned that the grain seller owns or controls, free of liens, any grain offered for sale. Cancellation of bonds by a surety under this section shall meet the requirements of section 542.4. The liability of a surety on any bond under this section shall not accumulate for each successive license period during which the bond is in force.

3. The fee for a bonded grain seller's license shall be two hundred dollars per year. All licenses shall terminate on the thirtieth of June of each year. There shall be no financial or net worth requirements for bonded grain sellers. License fees for new licenses may be prorated by the commission on a monthly basis.

4. A producer who is licensed under this section shall not sell any grain except grain that is owned by the producer and that is produced on land owned, leased or operated by the producer, including land located outside of this state.

Violation of this subsection is grounds for revocation of the license, and the violator shall be disqualified from relicensure under this section for a period of one year after the date the revocation is effective.

5. This section does not require a person to be licensed to sell grain.

Sec. 16. Chapter 542, Code 1981, is amended by adding the following new section:

NEW SECTION. COOPERATIVE AGREEMENTS.

1. Notwithstanding the other provisions of this chapter, the commission may enter into cooperative agreements with other states for the purpose of making available to those states the information acquired under the bonding, licensing, and examination procedures of this chapter.

2. If a cooperative agreement is in effect under this section, the bonding requirements of this chapter may be satisfied by:

a. Filing with the commission evidence of a bond on file with a state with which Iowa has a cooperative agreement as provided for by this section.

b. Such bond shall be copayable to the state of Iowa for the benefit of sellers of grain under chapter 542 in Iowa.

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

Any bond required by this chapter may be made copayable to any state with whom this state has entered into contracts or agreements as authorized by this section, for the benefit of sellers of grain in that state.

Sec. 17. Chapter 542, Code 1981, is amended by adding the following new section:

NEW SECTION. SHRINKAGE ADJUSTMENTS--DISCLOSURES--PENALTIES.

1. A person who, in connection with the receipt of corn or soybeans for storage, processing, or sale, adjusts the scale weight of the grain to compensate for the moisture

content of the grain shall compute the amount of the adjustment by multiplying the scale weight of the grain by that factor which results in a rate of adjustment of one and eighteen hundredths percent of weight per one percent of moisture content. The use of any rate of weight adjustment for moisture content other than the one prescribed by this subsection is a fraudulent practice. The person shall post on the business premises in a conspicuous place notice of the rate of adjustment for moisture content that is prescribed by this subsection. Failure to make this disclosure is a simple misdemeanor.

2. A person who, in connection with the receipt of grain for storage, processing or sale, adjusts the quantity of the grain received to compensate for losses to be incurred during the handling, processing, or storage of the grain shall post on the business premises in a conspicuous place notice of the rate of adjustment to be made for this shrinkage. Failure to make the required disclosure is a simple misdemeanor.

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

Sec. 18. Section 543.1, Code 1981, is amended by adding the following new subsection:

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

Sec. 19. Section 543.2, Code 1981, is amended to read as follows:

543.2 DUTIES AND POWERS OF THE COMMISSION. The commission ~~is authorized to~~ may exercise general supervision over the storage, warehousing, classifying according to grade or otherwise, weighing, and certification of agricultural products. The commission may inspect or cause to be inspected any warehouse ~~and~~ inspections may be made at times and for purposes as the commission determines. The commission shall cause every licensed warehouse and its contents to be inspected once in every twelve-month period, provided that if a class 1 warehouseman elects to submit the unaudited financial statement under section 543.6, subsection 4, paragraph b, the commission shall cause the warehouse to be inspected twice in every twelve-month period. The commission may require the filing of reports ~~describing any~~ relating to a warehouse or the ~~its~~ operation thereof. If upon ~~any such~~ inspection a deficiency is found to exist as to the quantity or quality of agricultural products stored, as indicated on the warehouseman's books and records according to official grain standards, the commission ~~shall have the authority to~~ ~~and~~ may require an employee of the commission to remain at the licensed warehouse and supervise all operations ~~conducted thereat~~ involving agricultural products stored ~~there~~ under ~~the provisions of~~ this chapter until the deficiency is corrected. ~~The commission shall inspect or cause to be inspected every licensed warehouse and the contents thereof not less than once every six months and the commission shall have authority to~~ may make available to the United States government, or any of its agencies, including the Commodity Credit Corporation, the results of inspections made and inspection reports submitted to it by employees of the commission, upon payment to it of ~~such~~ charges as ~~may be~~ determined by the commission, but ~~in no event shall such the~~ charges shall not be less than the actual cost of ~~such~~ services rendered ~~in regard thereto~~, as determined by the commission. The commission ~~shall have authority to~~ may enter into contracts

and agreements for such purpose and shall keep a record of all money thus received. All such money shall be paid over to the treasurer of state as miscellaneous receipts. The commission may classify any warehouse in accordance with its suitability for the storage of agricultural products and shall specify in any license issued for the operation of any warehouse the type or types and the quantity of agricultural products which may be exclusively stored in ~~such~~ the warehouse. The commission may prescribe, within the limitations of this chapter, the duties of licensed warehousemen with respect to the care of and responsibility for the contents of licensed warehouses. Grain grades shall be determined under the official grain standards. The commission may from time to time publish ~~such~~ data in connection with the administration of this chapter as may be of public interest. The commission shall ~~have the duty of administration of the further provisions of~~ administer this chapter.

Sec. 20. Section 543.5, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commission may adopt rules specifying the form, content and use of scale tickets, warehouse receipts, settlement sheets, daily position records, shipping ledgers, and other documents used by licensed warehouses. All scale ticket forms and warehouse receipt forms in the possession of a warehouseman shall have been permanently and consecutively numbered at the time of printing. A warehouseman shall maintain an accurate record of the numbers of these documents. The record shall include the disposition of each form, whether issued, destroyed, or otherwise disposed of. The commission may by rule require this use of pre-numbered forms and recording for documents other than scale tickets and warehouse receipts.

Sec. 21. Section 543.6, Code 1981, is amended to read as follows:

543.6 ISSUANCE OF LICENSE AND FINANCIAL RESPONSIBILITY.

1. The commission is authorized, upon application to it, to issue to any warehouseman or to any person about to become

a warehouseman a license or licenses for the operation of a warehouse or warehouses in accordance with the provisions of this chapter and such rules as may be made by the commission under the authority of section 543.5. ~~A single license may be issued for the operation of two or more warehouses located in the same city and operated by the same warehouseman.~~ A single license to operate two or more warehouses located within a twenty-five mile radius of a central office may be issued, ~~but a separate fee shall be charged for each station.~~

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

a. A class 1 license is required if the storage capacity of a warehouse is more than one hundred thousand bushels.

b. A class 2 license is required for a warehouse that is not required to have a class 1 license.

3. An application for a warehouse license shall be accompanied by a complete financial statement of the applicant setting forth the assets, liabilities and net worth of the applicant. The financial statement must be prepared according to normally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon ~~petition being filed with the commission~~ written request, the commission or a designated employee may allow asset valuations in accordance with a competent appraisal. ~~Deferred pricing~~ Unpriced contracts shall be shown as a liability and valued at the applicable current market price of grain as of the date the financial statement is prepared.

4. In order to receive and retain a class 1 license, the ~~applicant must have and maintain a net worth of at least twenty-five thousand dollars or provide bond in addition to that required by section 543.12 in the amount of two thousand dollars for each one thousand dollars or fraction thereof~~ of net worth deficiency following conditions must be satisfied:

a. The warehouseman shall have and maintain a net worth of at least fifty thousand dollars, or maintain a bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However,

a person shall not be licensed as a class 1 warehouseman if the person has a net worth of less than twenty-five thousand dollars. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise required under this chapter.

b. The warehouseman shall submit, as required by the commission, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the commission may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the commission. The warehouseman may elect, however, to submit a financial statement satisfying the requirements of subsection b, paragraph b, in lieu of the audited financial statement specified in this paragraph, and if a warehouseman makes this election the commission shall cause the warehouseman to be inspected twice during each twelve-month period in the manner provided in section 543.2.

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

a. The warehouseman shall have and maintain a net worth of at least twenty-five thousand dollars, or maintain a bond in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net worth deficiency. However, a person shall not be licensed as a class 2 warehouseman if the person has a net worth of less than ten thousand dollars. A bond submitted for purposes of this paragraph shall be in addition to any bond otherwise required under this chapter.

b. The warehouseman shall submit, as required by the commission, a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant.

6. The commission may adopt rules governing the timing and form of financial statements to be submitted to it. The commission may require additional information or verification with respect to the financial resources of the applicant or licensee and the applicant's or licensee's ability to maintain the quantity and quality of stored grain.

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

Sec. 22. Section 543.8, Code 1981, is amended to read as follows:

543.8 LICENSE TO SPECIFY TYPE AND QUANTITY OF PRODUCTS WHICH MAY BE STORED. The commission shall determine with respect to each application for a license whether the warehouse or warehouses described in the application is or are suitable for the proper and safe storage of the particular agricultural product or products intended to be stored therein in the quantities specified in the application, provided that no warehouse shall be found to be suitable and safe for the storage of bulk grain unless such warehouse is equipped with a fixed or portable mechanical device of a type in common use as an adjunct to the movement of bulk grain. Each license issued for the operation of a single warehouse shall specify the type or types and quantities of agricultural products which may be stored in such warehouse. Each license issued to a warehouseman for the operation of two or more warehouses ~~in the same city~~ shall specify with respect to each warehouse the type or types and quantities of agricultural product which may be stored in such warehouse. It shall be unlawful for any licensed warehouseman to accept for storage or to store in any licensed warehouse any agricultural product or products other than the type or types and quantities specified in the license for the operation of such warehouse.

Sec. 23. Section 543.11, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Whenever the commission shall determine that a bond filed under the provisions of ~~section-543-12~~ this chapter and approved by the commission, is, or has become, insufficient to secure the faithful performance of the obligations of the licensed warehouseman, or whenever the commission shall determine that insurance is not fully provided as required under section 543.15, it may require the licensed warehouseman to provide additional bond or bonds or additional evidence of insurance coverage so that the bond and insurance shall conform with the requirements of ~~sections-543-12, 543-13, and-543-15~~ this chapter. If ~~such~~ additional insurance is not provided within five days after receipt by the licensee of notice by certified mail the license of the warehouseman concerned shall be automatically suspended. If ~~such~~ additional insurance is not filed within another ~~twenty-five~~ ten days, the warehouse license shall be automatically revoked. If additional bond is not provided within ~~thirty~~ a period as set by the commission, but not to exceed twenty days after receiving notice, ~~by certified mail~~ the warehouse license shall be suspended. If ~~such~~ additional bond is not filed within ~~sixty~~ ten days following suspension, the warehouse license shall be automatically revoked. When a license is so revoked, the commission shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of such revocation. The commission shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following the ~~initial~~ revocation as herein set forth. Such notice shall be by ordinary mail sent to the last known address of each person having grain in storage as provided in this section.

Sec. 24. Section 543.17, Code 1981, is amended to read as follows:

543.17 RECEIVING BULK GRAIN AT LICENSED AND UNLICENSED WAREHOUSES.

1. Any grain which has been received at any licensed warehouse for which the actual sale price is not fixed and proper documentation made or payment made shall be construed to be grain held for storage within the meaning of this chapter. Grain may be held in open storage or placed on warehouse receipt. ~~Actual payment shall be made on all priced grain within thirty days unless a deferred payment or deferred pricing contract has been executed.~~ Warehouse receipts shall be issued for all grain held in open storage, within six months of delivery to the warehouse, unless the depositor has signed a statement that the depositor does not desire a warehouse receipt. The warehouseman's tariff shall apply for any grain that is retained in open storage or under warehouse receipt.

2. Bulk grain deposited with a licensed warehouseman for processing, cleaning, drying, shipping for the account of the depositor or any other purpose shall be removed within thirty days or such grain shall be determined as stored grain and the warehouseman's tariff charges shall apply.

3. Grain received on a scale ticket which fails to have the price fixed and properly documented on the records of the warehouseman shall be construed to be in open storage.

4. All grain whether open storage or having been placed on warehouse receipt shall be covered by the warehouseman's bond as required under the provisions of this chapter.

~~2. -- Notwithstanding any provisions of this section, a written agreement may be made between the seller and the licensed warehouseman for any bulk grain delivered to or stored at a licensed warehouse that payment or pricing and payment will be deferred to a later date. -- Such agreement shall contain a statement informing the seller that the warehouseman shall not be required to carry insurance or bond on such grain for the benefit of the seller and that the payment for such grain becomes a common claim against the warehouseman.~~

~~The agreement, in addition to such other information as may be required, shall contain the following:~~

- ~~a. The seller's or depositor's name and address;~~
- ~~b. The conditions of delivery;~~
- ~~c. The amount and kind of grain delivered;~~
- ~~d. The price per bushel or basis of value;~~
- ~~e. The date payment is to be made.~~

~~Such agreement must be numbered and signed by both parties and executed in duplicate. One copy shall be retained by the warehouseman and one copy shall be delivered to the seller.~~

~~Grain received or purchased in storage under a deferred payment or deferred pricing contract under the provisions of this section shall be deemed to be warehouse-owned grain.~~

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

6. If the depositor of bulk grain in an unlicensed warehouse fails to sell the grain or orders other disposition of the grain, the warehouseman may purchase the grain, if otherwise allowed by law, on the thirtieth day after deposit at not less than the local market price at the close of business on the thirtieth day or return the grain to the depositor by the thirtieth day.

3- 7. Every licensed warehouseman shall, on or before July 1 of each year, send a statement for each holder of a warehouse receipt covering grain held for more than one year at that warehouse to his or her last known address. The statement shall show the amount of all grain held pursuant to warehouse receipt for such warehouse receipt holder and the amount of any storage charges held by the licensed

warehouseman against that grain. However, a licensed warehouseman need not prepare this annual statement for a holder of a warehouse receipt, if the licensed warehouseman prepares such statements monthly, quarterly or for any other period more frequent than annually. Failure to prepare a statement required by this subsection ~~shall be punishable by a civil fine not to exceed one hundred dollars~~ is a simple misdemeanor. Violation of this section shall not constitute grounds for suspension, revocation, or modification of the license of anyone licensed under this chapter.

Sec. 25. Section 543.18, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The original copy of every warehouse receipt shall be imprinted with the signature of the secretary of the commerce commission prior to issuance.

Sec. 26. Chapter 543, Code 1981, is temporarily amended commencing on the effective date of this Act and until July 1, 1983, by adding the following temporary new section:

TEMPORARY NEW SECTION. FEES. The commission shall charge the following fees:

1. For the issuance or renewal of a license, a fee determined as follows:
 - a. With respect to a warehouse license for the storage of bulk grain:
 - (1) If the total storage capacity is one hundred thousand bushels or less, a fee of thirty dollars.
 - (2) If the total storage capacity is greater than one hundred thousand bushels but not more than five hundred thousand bushels, a fee of fifty dollars.
 - (3) If the total storage capacity exceeds five hundred thousand bushels, a fee of one hundred dollars.
 - b. With respect to a warehouse license for the storage of products other than bulk grain:
 - (1) For intended storage of products of a value of one hundred thousand dollars or less, a fee of thirty dollars.
 - (2) For intended storage of products of a value greater than one hundred thousand dollars but not greater than three hundred thousand dollars, a fee of fifty dollars.

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

2. For each inspection of a warehouse or station for the purpose of licensing, a fee of twenty-five dollars.

3. For each amendment of a license, a fee of ten dollars.

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

5. For the cost of maintaining an employee of the commission at a warehouse to supervise the correction of a deficiency, a fee of one hundred fifty dollars per day.

All fees received by the commission shall be paid to the treasurer of state for deposit in the state general fund. License fees for new licenses shall be prorated by the commission on a monthly basis.

This section supersedes section 543.33, commencing on the effective date of this Act and until July 1, 1983.

Sec. 27. Section 543.36, Code 1981, is amended to read as follows:

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

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

2. A person who engages in business as a warehouseman without obtaining a license, or who refuses to permit inspection of licensed premises, or books, accounts, records or other documents required by this chapter, or who uses a scale ticket, warehouse receipt or other document which fails to satisfy requirements established by the commission commits a serious misdemeanor, except that a person who commits any of these offenses after having been found guilty of the same offense commits an aggravated misdemeanor.

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

4. A violation of this chapter, or a violation of chapter 714 or 715 involving the business of a warehouseman, may be restrained by injunction in an action brought by the commerce commission.

Sec. 28. Section 543.37, Code 1981, is amended to read as follows:

543.37 FAILURE TO PAY FEE. Failure to pay the annual fee provided for in section 543.33 on or before ~~the date the same shall become due~~ June 30 of the year for which due shall cause a license to terminate. ~~The annual fee shall become due on June 30 each year.~~ A warehouse license which has terminated may be reinstated by the commission upon receipt of a proper renewal application, ~~current financial statement,~~ the renewal fee, and a penalty fee in the amount of ten twenty-five dollars from the warehouse, if ~~such are~~ filed within thirty days from the date of termination of the warehouse license. The commission may cancel the license upon request of the licensee unless a complaint or information is filed against the licensee alleging a violation of a provision of this chapter.

Sec. 29. Chapter 543, Code 1981, is amended by adding the following new section:

NEW SECTION. WAREHOUSEMAN'S OBLIGATION. A warehouseman shall maintain at all times sufficient quantity and quality of grain or other agricultural products to cover the warehouseman's obligation. A warehouseman shall not at any time have less grain or other agricultural products in the warehouse than the obligations to depositors.

Sec. 30. Chapter 543, Code 1981, is amended by adding the following new section:

NEW SECTION. CONFIDENTIALITY OF RECORDS. Notwithstanding the provisions of chapter 68A, all financial statements of warehousemen under this chapter shall be kept confidential

by the commission and its agents and employees and are not subject to disclosure except as follows:

1. Upon waiver by the licensee.
2. In actions or administrative proceedings commenced under this chapter or chapter 542.
3. When required by subpoena or other court orders.
4. Disclosure to law enforcement agencies in regards to the detection and prosecution of public offenses.
5. Where released to a bonding company approved by the commission or to the United States department of agriculture or any of their divisions.

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

NEW SECTION. SHRINKAGE ADJUSTMENTS--DISCLOSURES--PENALTIES.

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

2. A person who, in connection with the receipt of grain for storage, processing or sale, adjusts the quantity of the grain received to compensate for losses to be incurred during the handling, processing, or storage of the grain shall post on the business premises in a conspicuous place notice of the rate of adjustment to be made for this shrinkage. Failure to make the required disclosure is a simple misdemeanor.

3. A person who adjusts the scale weight of corn or soybeans both for moisture content and for handling, processing,

or storage losses may combine the two adjustment factors into a single factor and may use this resulting factor to compute the amount of weight adjustment in connection with storage, processing, or sale transactions, provided that the person shall post on the business premises in a conspicuous place a notice that discloses the moisture shrinkage factor prescribed by subsection 1, the handling shrinkage factor to be imposed, and the single factor that results from combining these factors. Failure to make the required disclosure is a simple misdemeanor.

Sec. 32. It is the intent of the general assembly that sections 7 and 26 of this Act shall have temporary effect only, and that sections 542.6 and 543.33, Code 1981, as they existed prior to amendment by this Act shall be the law of this state on and after July 1, 1983.

DEI/WYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 841, Sixty-ninth General Assembly.

PAT H. HARPER
Chief Clerk of the House

Approved *June 13*, 1981

ROBERT D. RAY
Governor