

104 Mr. Paine 3/29 (p. 1065)

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Place On Calendar

HOUSE FILE 533  
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 148)

Passed House, Date 3-22-89 (p. 724) Passed Senate, Date 4-12-89 (p. 1287)  
Vote: Ayes 70 Nays 0 Vote: Ayes 47 Nays 1

Approved May 8, 1989 (p. 2076)

*Repassed by House for Senate amendment*  
4-21-89 (p. 1742)  
40-1

**A BILL FOR**

1 An Act relating to the regulation of grain management, by  
2 providing for licensing and regulation of grain dealers and  
3 warehouse operators and the administration of licensing and  
4 regulation within the department of agriculture and land  
5 stewardship and by the Iowa grain indemnity board.

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

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HF 533

1 DIVISION I

2 Section 101. Sections 542.2, 542.9, 542.10, 542.13,  
3 542A.7, 543.4, and 543.10, Code 1989, are amended by striking  
4 from the sections the words "warehouse division" and inserting  
5 in lieu thereof the words "warehouse bureau".

6 DIVISION II

7 Section 201. Section 542.3, subsection 4, paragraph a,  
8 Code 1989, is amended to read as follows:

9 a. The grain dealer shall have and maintain a net worth of  
10 at least fifty one hundred thousand dollars, or maintain a  
11 deficiency bond or an irrevocable letter of credit in the  
12 amount of two thousand dollars for each one thousand dollars  
13 or fraction thereof of net worth deficiency. However, a  
14 person shall not be licensed as a class 1 grain dealer if the  
15 person has a net worth of less than twenty-five fifty thousand  
16 dollars.

17 Sec. 202. Section 542.3, subsection 5, paragraph a, Code  
18 1989, is amended to read as follows:

19 a. The grain dealer shall have and maintain a net worth of  
20 at least twenty-five fifty thousand dollars, or maintain a  
21 deficiency bond or an irrevocable letter of credit in the  
22 amount of two thousand dollars for each one thousand dollars  
23 or fraction thereof of net deficiency. However, a person  
24 shall not be licensed as a class 2 grain dealer if the person  
25 has a net worth of less than ten twenty-five thousand dollars.

26 DIVISION III

27 Sec. 301. Section 542.3, subsection 4, paragraph b, Code  
28 1989, is amended to read as follows:

29 b. The grain dealer shall submit, as required by the  
30 department, a financial statement that is accompanied by an  
31 unqualified opinion based upon an audit performed by a  
32 certified public accountant licensed in this state. However,  
33 the department may accept a qualification in an opinion that  
34 is unavoidable by any audit procedure that is permitted under  
35 generally accepted accounting principles. An opinion that is

1 qualified because of a limited audit procedure or because the  
2 scope of an audit is limited shall not be accepted by the  
3 department. The department shall not require that a grain  
4 dealer submit more than one such unqualified opinion per year.  
5 The grain dealer may elect, however, to submit a financial  
6 statement that is accompanied by the report of a certified  
7 public accountant licensed in this state that is based upon a  
8 review performed by the certified public accountant in lieu of  
9 the audited financial statement specified in this paragraph;  
10 ~~and if a grain dealer makes this election the department shall~~  
11 ~~cause the grain dealer to be inspected not less than twice~~  
12 ~~during each twelve-month period, but not more than five times~~  
13 ~~in a twenty-four-month period without good cause, in the~~  
14 ~~manner provided in section 542.9. In addition, the department~~  
15 ~~shall cause a grain dealer who makes this election to submit~~  
16 ~~to the department, in a form and manner prescribed by the~~  
17 ~~department, an interim financial statement no less than once~~  
18 ~~in every three calendar month period. However, the department~~  
19 ~~shall not require that a grain dealer submit more than one~~  
20 ~~such report of a certified public accountant per year that is~~  
21 ~~based upon a review performed in lieu of the audited financial~~  
22 ~~statement. However, at any time the department may require a~~  
23 financial statement that is accompanied by the report of a  
24 certified public accountant licensed in this state that is  
25 based upon a review performed by a certified public accountant  
26 if the department has good cause to believe that the net worth  
27 or current asset to current liability ratio of a licensee  
28 presents a danger to producers or sellers with whom the  
29 licensee deals. "Good cause" means that the department has  
30 evidence that the licensee issued checks on insufficient  
31 funds, evidence of a quality or quantity shortage in a  
32 warehouse facility, or evidence of violations of recordkeeping  
33 requirements. If a grain dealer making the election engages  
34 in credit sale contracts, the grain dealer shall also comply  
35 with the provisions of section 542.15, subsection 8.

1 Sec. 302. Section 542.3, subsection 5, paragraph b, Code  
2 1989, is amended to read as follows:

3 b. The grain dealer shall submit, as required by the  
4 department, a financial statement that is accompanied by an  
5 unqualified opinion based upon an audit performed by a  
6 certified public accountant licensed in this state. However,  
7 the department may accept a qualification in an opinion that  
8 is unavoidable by any audit procedure that is permitted under  
9 generally accepted accounting principles. An opinion that is  
10 qualified because of a limited audit procedure or because the  
11 scope of an audit is limited shall not be accepted by the  
12 department. The department shall not require that a grain  
13 dealer submit more than one such unqualified opinion per year.  
14 The grain dealer may elect, however, to submit a financial  
15 statement that is accompanied by the report of a certified  
16 public accountant licensed in this state that is based upon a  
17 review performed by the certified public accountant in lieu of  
18 the audited financial statement specified in this paragraph  
19 ~~and if a grain dealer makes this election the department shall~~  
20 ~~cause the grain dealer to be inspected not less than twice~~  
21 ~~during each twelve-month period, but not more than five times~~  
22 ~~in a twenty-four-month period without good cause, in the~~  
23 ~~manner provided in section 542.9. In addition, the department~~  
24 ~~shall cause a grain dealer who makes this election to submit~~  
25 ~~to the department, in a form and manner prescribed by the~~  
26 ~~department, an interim financial statement not less than once~~  
27 ~~in every three-calendar-month period. However, the department~~  
28 ~~shall not require that a grain dealer submit more than one~~  
29 ~~such report of a certified public accountant per year that is~~  
30 ~~based upon a review performed in lieu of the audited financial~~  
31 ~~statement. However, at any time the department may require a~~  
32 financial statement that is accompanied by the report of a  
33 certified public accountant licensed in this state that is  
34 based upon a review performed by a certified public accountant  
35 if the department has good cause to believe that the net worth

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

10 Sec. 303. Section 543.6, subsection 4, paragraph b, Code  
11 1989, is amended to read as follows:

12 b. The warehouse operator shall submit, as required by the  
13 department, a financial statement that is accompanied by an  
14 unqualified opinion based upon an audit performed by a  
15 certified public accountant licensed in this state. However,  
16 the department may accept a qualification in an opinion that  
17 is unavoidable by any audit procedure that is permitted under  
18 generally accepted accounting principles. An opinion that is  
19 qualified because of a limited audit procedure or because the  
20 scope of an audit is limited shall not be accepted by the  
21 department. The department shall not require that a warehouse  
22 operator submit more than one such unqualified opinion per  
23 year. The warehouse operator may elect, however, to submit a  
24 financial statement that is accompanied by the report of a  
25 certified public accountant licensed in this state that is  
26 based upon a review performed by the certified public  
27 accountant in lieu of the audited financial statement  
28 specified in this paragraph; ~~and if a warehouse operator makes~~  
29 ~~this election the department shall cause the warehouse to be~~  
30 ~~inspected not less than twice during each twelve-month period,~~  
31 ~~but not more than five times in a twenty-four-month period~~  
32 ~~without good cause, in the manner provided in section 543.2.~~  
33 ~~In addition, the department shall cause a warehouse operator~~  
34 ~~who makes this election to submit to the department, in a form~~  
35 ~~and manner prescribed by the department, an interim financial~~

1 ~~statement no less than once in every three calendar month~~  
2 ~~period. -- However, the department shall not require that a~~  
3 ~~warehouse operator submit more than one such report of a~~  
4 ~~certified public accountant per year that is based upon a~~  
5 ~~review performed in lieu of the audited financial statement.~~  
6 However, at any time the department may require a financial  
7 statement that is accompanied by the report of a certified  
8 public accountant licensed in this state that is based upon a  
9 review performed by a certified public accountant if the  
10 department has good cause to believe that the net worth or  
11 current asset to current liability ratio of a licensee  
12 presents a danger to producers or sellers with whom the  
13 licensee deals. "Good cause" means that the department has  
14 evidence that the licensee issued checks on insufficient  
15 funds, evidence of a quality or quantity shortage in a  
16 warehouse facility, or evidence of violations of recordkeeping  
17 requirements.

18     Sec. 304. Section 543.6, subsection 5, paragraph b, Code  
19 1989, is amended to read as follows:

20     b. The warehouse operator shall submit, as required by the  
21 department, a financial statement that is accompanied by an  
22 unqualified opinion based upon an audit performed by a  
23 certified public accountant licensed in this state. However,  
24 the department may accept a qualification in an opinion that  
25 is unavoidable by any audit procedure that is permitted under  
26 generally accepted accounting principles. An opinion that is  
27 qualified because of a limited audit procedure or because the  
28 scope of an audit is limited shall not be accepted by the  
29 department. The department shall not require that a warehouse  
30 operator submit more than one such unqualified opinion per  
31 year. The warehouse operator may elect, however, to submit a  
32 financial statement that is accompanied by the report of a  
33 certified public accountant licensed in this state that is  
34 based upon a review performed by the certified public  
35 accountant in lieu of the audited financial statement

1 specified in this paragraph, and if a warehouse operator makes  
2 this election the department shall cause the warehouse to be  
3 inspected not less than twice during each twelve-month period,  
4 but not more than five times in a twenty-four-month period  
5 without good cause, in the manner provided in section 543.2.  
6 In addition, the department shall cause a warehouse operator  
7 who makes this election to submit to the department, in a form  
8 and manner prescribed by the department, an interim financial  
9 statement no less than once in every three calendar month  
10 period. However, the department shall not require that a  
11 warehouse operator submit more than one such report of a  
12 certified public accountant per year that is based upon a  
13 review performed in lieu of the audited financial statement.  
14 However, at any time the department may require a financial  
15 statement that is accompanied by the report of a certified  
16 public accountant licensed in this state that is based upon a  
17 review performed by a certified public accountant if the  
18 department has good cause to believe that the net worth or  
19 current asset to current liability ratio of a licensee  
20 presents a danger to producers or sellers with whom the  
21 licensee deals. "Good cause" means that the department has  
22 evidence that the licensee issued checks on insufficient  
23 funds, evidence of a quality or quantity shortage in a  
24 warehouse facility, or evidence of violations of recordkeeping  
25 requirements.

## 26 DIVISION IV

27 Sec. 401. Section 542.3, subsection 4, paragraph c, Code  
28 1989, is amended to read as follows:

29 c. The grain dealer shall have and maintain current assets  
30 equal to at least ninety one hundred percent of current  
31 liabilities or provide a deficiency bond or an irrevocable  
32 letter of credit under the following conditions:

33 (1) A grain dealer with current assets equal to at least  
34 forty-five fifty percent of current liabilities may provide a  
35 deficiency bond or an irrevocable letter of credit of two

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

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

14 Sec. 402. Section 542.3, subsection 5, paragraph c, Code  
15 1989, is amended to read as follows:

16 c. The grain dealer shall have and maintain current assets  
17 equal to at least ~~ninety one hundred~~ one hundred percent of current  
18 liabilities or provide a deficiency bond or an irrevocable  
19 letter of credit under the following conditions:

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

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

1 Sec. 403. Section 542.15, subsection 7, Code 1989, is  
2 amended to read as follows:

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

7 DIVISION V

8 Sec. 501. Section 543.3, Code 1989, is amended by adding  
9 the following new subsection:

10 NEW SUBSECTION. 8. A person employed or appointed by the  
11 department and carrying out the duties of the department  
12 acting as receiver under this chapter shall be deemed to be an  
13 employee of the state as defined in section 25A.2. Chapter  
14 25A is applicable to any claim as defined in section 25A.2  
15 against the person carrying out the duties of the department  
16 acting as receiver.

17 Sec. 502. Section 543.4, subsection 3, unnumbered  
18 paragraph 1, Code 1989, is amended to read as follows:

19 When the court approves the sale of commodities, the  
20 department shall employ a merchandiser to effect the sale of  
21 those commodities. A person employed or appointed as a  
22 merchandiser is deemed to be an employee of the state as  
23 defined in section 25A.2 and chapter 25A is applicable to any  
24 claim as defined in section 25A.2 against the person acting as  
25 a merchandiser. A person employed as a merchandiser must meet  
26 the following requirements:

27 DIVISION VI

28 Sec. 601. Section 542.16, Code 1989, is amended by adding  
29 the following new subsection and renumbering the subsequent  
30 subsections:

31 NEW SUBSECTION. 3. Disclosure to the Iowa grain indemnity  
32 fund board in regard to licensees who present liability to the  
33 fund.

34 Sec. 602. Section 543.24, Code 1989, is amended by adding  
35 the following new subsection and renumbering the subsequent

1 subsections:

2 NEW SUBSECTION. 3. Disclosure to the Iowa grain indemnity  
3 fund board in regard to licensees who present liability to the  
4 fund.

5 DIVISION VII

6 Sec. 701. Section 542.5, Code 1989, is amended by adding  
7 the following new unnumbered paragraph:

8 NEW UNNUMBERED PARAGRAPH. The department may deny a  
9 license to an applicant if any of the following apply:

10 1. The applicant has caused liability to the Iowa grain  
11 depositors and sellers indemnity fund in regard to a license  
12 issued under this chapter or chapter 543, and the liability  
13 has not been discharged, settled, or satisfied.

14 2. The applicant is owned or controlled by a person who  
15 has caused liability to the fund through operations under a  
16 license issued under this chapter or chapter 543 and the  
17 liability has not been discharged, settled, or satisfied.

18 Sec. 702. Section 543.6, Code 1989, is amended by adding  
19 the following new subsection:

20 NEW SUBSECTION. 7A. The department may deny a license to  
21 an applicant if any of the following apply:

22 a. The applicant has caused liability to the Iowa grain  
23 depositors and sellers indemnity fund through operations under  
24 a license issued under this chapter or chapter 542, and the  
25 liability has not been discharged, settled, or satisfied.

26 b. The applicant is owned or controlled by a person who  
27 has caused liability to the fund through operations under a  
28 license issued under this chapter or chapter 542, and the  
29 liability has not been discharged, settled, or satisfied.

30 DIVISION VIII

31 Sec. 801. Section 543.6, subsection 1, Code 1989, is  
32 amended to read as follows:

33 1. The department ~~is authorized~~, upon application to it,  
34 to may issue to any a warehouse operator or to any a person  
35 about to become a warehouse operator a license or ~~licenses~~ for

1 the operation of a warehouse ~~er-warehouses~~ in accordance with  
2 ~~the-provisions-of~~ this chapter and such the rules ~~as-may-be~~  
3 ~~made~~ adopted by the department under ~~the-authority-of~~ section  
4 543.5. A single license to operate two or more warehouses  
5 located anywhere within ~~a-twenty-five-mile-radius-of-a-central~~  
6 ~~office~~ the state may be issued.

7 Sec. 802. Section 543.6, subsection 3, Code 1989, is  
8 amended to read as follows:

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

20 Sec. 803. Section 543.7, subsection 7, Code 1989, is  
21 amended to read as follows:

22 7. A tariff on a form to be prescribed by the department,  
23 for storage, ~~conditioning-of-stored-products,~~ and receiving  
24 and loadout charges.

25 Sec. 804. Section 543.15, unnumbered paragraph 1, Code  
26 1989, is amended to read as follows:

27 All agricultural products in storage in a licensed  
28 warehouse and all agricultural products which have been  
29 deposited temporarily in a licensed warehouse pending storage  
30 or for purposes other than storage, shall be kept fully  
31 insured by the warehouse operator for the current value of the  
32 agricultural products against loss by fire, inherent  
33 explosion, or windstorm.

34 PARAGRAPH DIVIDED. The insurance shall be carried in an  
35 insurance company or companies authorized to do business in

1 this state, and evidence of the insurance coverage in a form  
2 approved by the department shall be filed with the department.  
3 An insurance policy shall not be canceled by the insurance  
4 company on less than sixty ninety days' notice by certified  
5 mail to the department and the principal unless the policy is  
6 being replaced with another policy and evidence of the new  
7 policy is filed with the department at the time of  
8 cancellation of the policy on file. The insurance shall be  
9 provided by, and carried in the name of, the warehouse  
10 operator. However, whenever the department shall receive  
11 notice from an insurance company that it has canceled the  
12 insurance of a licensed warehouse, the department shall  
13 automatically suspend the warehouse license if replacement  
14 insurance is not received by the department within seventy-  
15 five days of receipt of the notice of cancellation. The  
16 department shall cause an inspection of the licensed warehouse  
17 immediately at the end of the seventy-five day period. If  
18 replacement insurance is not filed within another ten days  
19 following suspension, the warehouse license shall be  
20 automatically revoked. When a license is revoked, the  
21 department shall notify each holder of an outstanding  
22 warehouse receipt and all known persons who have grain  
23 retained in open storage of the revocation. The department  
24 shall further notify each receipt holder and all known persons  
25 who have grain retained in open storage that the grain must be  
26 removed from the warehouse not later than the thirtieth day  
27 following the revocation. The notice shall be sent by  
28 ordinary mail to the last known address of each person having  
29 grain in storage as provided in this subsection. Claimants  
30 against the insurance have precedence in the following order:

31 DIVISION IX

32 Sec. 901. Section 543A.1, subsection 1, Code 1989, is  
33 amended by striking the subsection.

34 Sec. 902. Section 543A.1, subsection 10, Code 1989, is  
35 amended to read as follows:

1 10. "Seller" means a person who sells grain which the  
2 person has produced or caused to be produced to a licensed  
3 grain dealer, but excludes a person who executes a credit sale  
4 contract as a seller. However, "seller" does not include a  
5 person licensed as a grain dealer in any jurisdiction who  
6 sells grain to a licensed grain dealer.

7 Sec. 903. Section 543A.3, subsections 1 and 2, Code 1989,  
8 is amended to read as follows:

9 1. The grain depositors and sellers indemnity fund is  
10 created in the state treasury as a separate account. The  
11 general fund of the state is not liable for claims presented  
12 against the grain depositors and sellers indemnity fund under  
13 section 543A.6. The fund consists of a per-bushel fee on  
14 assessable purchased grain remitted by licensed grain dealers  
15 and licensed warehouse operators; an annual fee charged to and  
16 remitted by licensed grain dealers and licensed warehouse  
17 operators; delinquency penalties; sums collected by the  
18 department by legal action on behalf of the fund; and  
19 interest, property, or securities acquired through the use of  
20 moneys in the fund. The fiscal year of the fund begins July  
21 1. Fiscal quarters of the fund begin July 1, October 1,  
22 January 1, and April 1. The finances of the fund shall be  
23 calculated on an accrual basis in accordance with generally  
24 accepted accounting principles. The moneys collected under  
25 this section and deposited in the fund shall be used  
26 exclusively to indemnify depositors and sellers as provided in  
27 section 543A.6 and to pay the administrative costs of this  
28 chapter.

29 2. A per-bushel fee shall be assessed on all purchased  
30 grain. As used in this chapter, "purchased grain" means grain  
31 which is entered in the company owned paid position as  
32 evidenced on the grain dealer's daily position record.  
33 However, grain purchased from the United States government or  
34 any of its subdivisions or agencies or grain purchased under  
35 credit sale contract on or before the time of delivery shall

1 be excluded from the fee if the grain dealer provides  
2 documentation regarding the transaction satisfactory to the  
3 department. The grain dealer or-warehouse-operator shall  
4 forward the per-bushel fee to the department on a quarterly  
5 basis in the manner and using the forms prescribed by the  
6 department. A license is delinquent if the licensee fails to  
7 submit the full fee or quarterly forms when due, or if upon  
8 examination, an underpayment of the fee is found by the  
9 department. ~~If the per-bushel fee has not been received by~~  
10 ~~the department by the date required by the department, the~~ The  
11 grain dealer or-warehouse-operator is subject to a penalty of  
12 ten dollars for each day the grain dealer or-warehouse  
13 operator is delinquent or an amount equal to the amount of the  
14 deficiency, whichever is less. However, a licensee who fails  
15 to submit the full fee or quarterly forms when due, is subject  
16 to a minimum payment of ten dollars. The department may  
17 establish and apply a margin of error in determining whether a  
18 grain dealer or-warehouse-operator is delinquent. If the per-  
19 bushel fee has and any penalty due have not been received by  
20 the department within thirty days after ~~the payment was due~~  
21 notice by the department, the grain dealer's or-warehouse  
22 operator's license shall be suspended. The per-bushel fee  
23 shall be collected only once on each bushel of grain.

24 Sec. 904. Section 543A.3, subsection 4, Code 1989, is  
25 amended by striking the subsection and inserting in lieu  
26 thereof the following:

27 4. Payment of the full annual fee shall be made before a  
28 grain dealer's or warehouse operator's license is issued or  
29 renewed. If a licensee amends its license during the fiscal  
30 year for which an annual fee was paid, and the licensing  
31 entity remains the same, the licensee is required to pay a  
32 further fee only if the amendment changes the licensee's class  
33 from class 2 to class 1.

34 Sec. 905. Section 543A.3, Code 1989, is amended by adding  
35 the following new subsection:

1 NEW SUBSECTION. 7. A grain dealer may choose to pass on  
2 the cost of a per bushel fee to the sellers by an itemized  
3 discount noted on the settlement sheet. However, if the per-  
4 bushel fee is not in effect, no grain dealer shall make such a  
5 discount on the purchase of grain. A discount made nominally  
6 for the per-bushel fee while the fee is not in effect is  
7 grounds for license suspension and revocation under chapter  
8 542.

9 Sec. 906. Section 543A.4, Code 1989, is amended by adding  
10 the following new unnumbered paragraphs:

11 NEW UNNUMBERED PARAGRAPH. The duties of the board include  
12 the review and determination of claims, and the review and  
13 approval of administrative costs of the fund. To carry out  
14 these duties, the board has the power to adopt rules regarding  
15 its organization and procedures for determining claims.  
16 Further, the board shall approve rules proposed by the  
17 department for the administration of the per-bushel fee prior  
18 to their adoption by the department. The board may provide  
19 comment and advice to the department in regard to the  
20 department's administration of chapters 542 and 543 where the  
21 department's policies and rules may affect the exposure of the  
22 fund to liability. However, the board shall not become  
23 actively involved in a determination by the department as to  
24 whether disciplinary action is to be taken against a  
25 particular licensee. The board is not a forum for review or  
26 appeal in regard to any particular action taken by the  
27 department against a licensee.

28 NEW UNNUMBERED PARAGRAPH. The department through the grain  
29 warehouse bureau shall perform the administrative functions  
30 necessary for the operation of the board and the fund.  
31 Administrative costs approved by the board shall be paid from  
32 the fund. The rules of the department shall contain the rules  
33 of the board adopted for its organization and its procedures.  
34 The department shall adopt rules for the administration of the  
35 per-bushel fee upon the board's approval of the rules proposed

1 by the department. The secretary of agriculture, as president  
2 of the board as well as head of the department of agriculture  
3 and land stewardship, shall administer the department so as to  
4 minimize the risk of loss to the fund while protecting  
5 interests of depositors and sellers of grain. Policies and  
6 rules for the administration of chapters 542 and 543 which, as  
7 determined by the secretary of agriculture, may affect the  
8 exposure of the fund, shall be presented to the board for  
9 comment prior to their adoption by the department. The  
10 department shall make reports to the board in regard to  
11 licensee investigations which may result in disciplinary  
12 action against a licensee and exposure of the fund. The  
13 reports may be discussed by the board in closed session  
14 pursuant to section 21.5, and are confidential. In making the  
15 report, the department shall make available to the board  
16 records of licensees which are otherwise confidential under  
17 section 22.7, 542.16, or 543.24. However, a determination to  
18 take disciplinary action against a particular licensee shall  
19 be made exclusively by the department. A report to the board  
20 is not a prerequisite to disciplinary action against a  
21 licensee. Review of any action against a licensee, whether or  
22 not relating to the fund, shall be made exclusively through  
23 the department.

24 Sec. 907. Section 543A.5, subsection 1, Code 1989, is  
25 amended to read as follows:

26 1. The board shall review annually the debits of and  
27 credits to the grain depositors and sellers indemnity fund  
28 created in section 543A.3 and shall make any adjustments in  
29 the per-bushel fee required under section 543A.3, subsection  
30 2, and the dealer-warehouse fee required under section 543A.3,  
31 subsection 3, that are necessary to maintain the fund within  
32 the limits established under this section. Not later than the  
33 first day of May of each year, the board shall determine the  
34 proposed amount of the per-bushel fee based on the expected  
35 volume of grain on which the fee is to be collected and that

1 is likely to be handled under this chapter, and shall also  
 2 determine any adjustment to the dealer-warehouse fee. The  
 3 board shall make any changes in the previous year's fees in  
 4 accordance with chapter 17A. Changes in the fees shall become  
 5 effective on the following first day of July. The per-bushel  
 6 fee shall not exceed one-quarter cent per bushel on all  
 7 assessable purchased grain as defined in section 543A.3.  
 8 Until the per-bushel fee is adjusted or waived as provided in  
 9 this section, the per-bushel fee is one-quarter cent on all  
 10 assessable purchased grain.

11 Sec. 908. Section 543A.6, Code 1989, is amended to read as  
 12 follows:

13 543A.6 CLAIMS AGAINST FUND.

14 1. PERSONS WHO MAY FILE CLAIMS -- TIME OF FILING. A  
 15 depositor or seller may file a claim concerning ~~assessable~~  
 16 grain with the department for indemnification of a loss from  
 17 the grain depositors and sellers indemnity fund. A claim  
 18 shall be filed in the manner prescribed by the board. A claim  
 19 shall not be filed prior to the incurrence date, which is the  
 20 earlier of the following:

21 a. The revocation, termination, or cancellation of the  
 22 license of the grain dealer or warehouse operator, or the

23 b. The filing of a petition in bankruptcy by a grain  
 24 dealer or warehouse operator.

25 PARAGRAPH DIVIDED. However, ~~to~~ To be timely, a claim shall  
 26 be filed within one hundred twenty days of the ~~revocation,~~  
 27 ~~termination, or cancellation of the license of the grain~~  
 28 ~~dealer or warehouse operator. -- The value of a loss is to be~~  
 29 ~~measured as follows:~~ incurrence date.

30 2. NOTICE. The department shall cause notice of the  
 31 opening of the claim period to be published once each week for  
 32 two consecutive weeks in a newspaper of general circulation in  
 33 each of the counties in which the licensee maintains a  
 34 business location and in a newspaper of general circulation  
 35 within the state. The notice shall state the name and address

1 of the licensee and the claim incurrence date. The notice  
2 shall also state that any claims against the fund on account  
3 of the licensee shall be sent by ordinary mail to the  
4 department within one hundred twenty days after the incurrence  
5 date, and that the failure to make a timely claim relieves the  
6 fund from liability to the claimant. This notice may be  
7 incorporated by the department with a notice required by  
8 section 542.12 or 543.14.

9 3. DETERMINATION OF ELIGIBLE CLAIMS. The board shall  
10 determine a claim to be eligible for payment from the fund if  
11 the board finds all of the following:

- 12 a. That the claim was timely filed.  
13 b. That the incurrence date was on or after May 15, 1986.  
14 c. That the claimant qualifies as a depositor or seller.  
15 d. That the claim derives from a covered transaction. For  
16 purposes of this paragraph, a claim derives from a covered  
17 transaction if the claimant is a seller who transferred title  
18 to the grain to the grain dealer other than by credit sale  
19 contract within six months of the transfer of title, or if the  
20 claimant is a depositor who delivered the grain to the  
21 warehouse operator.  
22 e. That there is adequate documentation to establish the  
23 existence of a claim and to determine the amount of the loss.

24 a 4. VALUE OF LOSS -- WAREHOUSE CLAIMS. The board shall  
25 determine the dollar value of a claim incurred by a depositor  
26 holding a warehouse receipt or a scale weight ticket for grain  
27 that the depositor delivered for storage to the licensed  
28 warehouse operator or grain-dealer. The value shall be based  
29 on the average fair market price being paid for the grain to  
30 producers by the three licensed grain-dealers nearest the  
31 warehouse operator or grain-dealer on the earlier of the  
32 following:

33 (1) -- The date of license revocation, termination, or  
34 cancellation;

35 (2) -- The date on which the licensed warehouse operator or

1 ~~licensed-grain-dealer-filed-a-petition-in-bankruptcy-~~  
2 If the department has been appointed by the court as receiver  
3 of the grain assets of the warehouse operator, the value shall  
4 be presumed to be as stated in the plan of disposition  
5 approved by the court. If the warehouse operator has filed a  
6 petition in bankruptcy, the value shall be presumed to be  
7 based upon the fair market price, free-on-board from the site  
8 of the warehouse operator, being paid to producers for grain  
9 by the grain terminal operator nearest the warehouse operator  
10 on the date the petition was filed. If there is neither a  
11 department receivership nor a bankruptcy filing, the value  
12 shall be presumed to be based upon the fair market price,  
13 free-on-board from the site of the warehouse operator, being  
14 paid to producers for grain by the grain terminal operator  
15 nearest the warehouse operator on the date of license  
16 revocation or cancellation. If more than one date applies to  
17 a claim, the board may choose between the two. However, the  
18 board may accept the an alternative valuation of a claim as  
19 determined-by-a-court-of-competent-jurisdiction-as-the-value  
20 of-the-claim upon a showing of just cause by the depositor or  
21 department. All depositors filing claims under this section  
22 shall be bound by the value determined by the board. The  
23 value of the loss is the outstanding balance on the validated  
24 claim at time of payment from the fund.

25     b 5. VALUE OF LOSS -- GRAIN DEALER CLAIMS. The dollar  
26 value of a claim incurred by a seller who has sold grain or  
27 delivered grain for sale or exchange and who is a creditor of  
28 the licensed grain dealer for all or part of the value of the  
29 grain shall be based on the amount stated on the obligation on  
30 the date of the sale. If the sold grain was unpriced, the  
31 value of a claim shall be presumed to be based upon the fair  
32 market price, free-on-board from the site of the grain dealer,  
33 being paid to producers for grain by the grain terminal  
34 operator nearest the grain dealer on the date of the license  
35 revocation or cancellation or the filing of a petition in

1 bankruptcy. If more than one date applies to a claim, the  
2 board may choose between the two. However, the board may  
3 accept the an alternative valuation of a claim as determined  
4 by a court of competent jurisdiction as the value of the claim  
5 upon a showing of just cause by the seller or department. All  
6 sellers filing claims under this section shall be bound by the  
7 value determined by the board. The value of the loss is the  
8 outstanding balance on the validated claim at the time of  
9 payment from the fund.

10 2--~~The grain depositors and sellers indemnity fund is~~  
11 ~~liable to a depositor or seller for a claim which arises on or~~  
12 ~~after May 19, 1986, for ninety percent of the loss, as~~  
13 ~~determined under subsection 1, but not more than one hundred~~  
14 ~~fifty thousand dollars per claimant.~~

15 3--~~The board shall determine the validity of all claims~~  
16 ~~presented against the fund.~~

17 6. PROCEDURE -- APPEAL. The board, through the  
18 department, shall provide for notice to each depositor and  
19 seller upon its determination of eligibility and value of  
20 loss. Within twenty days of the notice, the depositor or  
21 seller may request a hearing for the review of either  
22 determination. The request shall be made in the manner  
23 provided by the board. The hearing and any further appeal  
24 shall be conducted as a contested case subject to chapter 17A.

25 A depositor or seller whose claim has been refused by the  
26 board may appeal the refusal to either the district court of  
27 Polk county or the district court of the county in which the  
28 depositor or seller resides. ~~The board shall provide for~~  
29 ~~payment from the fund to a depositor or seller whose claim has~~  
30 ~~been found to be valid.~~

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

1 ~~paid-before-the-fund-initially-reaches-one-million-dollars:~~

2 7. PAYMENT OF CLAIMS. Upon a determination that the claim  
3 is eligible for payment, the board shall provide for payment  
4 of ninety percent of the loss, as determined under subsection  
5 4, but not more than one hundred fifty thousand dollars per  
6 claimant. If at any time the board determines that there are  
7 insufficient funds to make payment of all claims, the board  
8 may order that payment be deferred on specified claims. The  
9 department, upon the board's instruction, shall hold those  
10 claims for payment until the board determines that the fund  
11 again contains sufficient assets.

12 5 8. SUBROGATION OF FUND. In the event of payment of a  
13 loss under this section, the fund is subrogated to the extent  
14 of the amount of any payments to all rights, powers,  
15 privileges, and remedies of the depositor or seller against  
16 any person regarding the loss. The depositor or seller shall  
17 render all necessary assistance to aid the department and the  
18 board in securing the rights granted in this section. No  
19 action or claim initiated by a depositor or seller and pending  
20 at the time of payment from the fund shall be compromised or  
21 settled without the consent of the board.

22 DIVISION X

23 Sec. 1001. Section 542.1, subsection 9, Code 1989, is  
24 amended to read as follows:

25 9. "Financial institution" means a bank or savings and  
26 loan association authorized by the state of Iowa or by the  
27 laws of the United States, which is a member of the federal  
28 deposit insurance corporation or the federal savings and loan  
29 insurance corporation, respectively; or the national bank for  
30 cooperatives established in the Agricultural Credit Act, Pub.  
31 L. No. 100-233.

32 Sec. 1002. Section 543.1, subsection 25, Code 1989, is  
33 amended to read as follows:

34 25. "Financial institution" means a bank or savings and  
35 loan association authorized by the state of Iowa or by the

1 laws of the United States, which is a member of the federal  
2 deposit insurance corporation or the federal savings and loan  
3 insurance corporation, respectively; or the national bank for  
4 cooperatives established in the Agricultural Credit Act, Pub.  
5 L. No. 100-233.

6 DIVISION XI

7 Sec. 1101. Section 543.1, subsection 18, Code 1989, is  
8 amended to read as follows:

9 18. "Grain Standards Act" means the United States Grain  
10 Standards Act, ~~as amended to and including January 1, 1977~~ ?  
11 U.S.C. ch. 3.

12 Sec. 1102. Section 543.39, unnumbered paragraph 1, Code  
13 1989, is amended to read as follows:

14 A licensed warehouse operator may store grain in any other  
15 ~~licensed warehouse in Iowa in addition to the warehouse~~  
16 ~~operator's own facilities licensed in accordance with section~~  
17 543.6 or the United States Warehouse Act, 7 U.S.C. ch. 10,  
18 subject to the following conditions:

19 DIVISION XII

20 Sec. 1201. Section 542.18, Code 1989, is repealed.

21 EXPLANATION

22 This bill relates to the regulation of grain management, by  
23 providing for licensing and regulation of grain dealers and  
24 operators and the administration, licensing, and regulation  
25 within the department of agriculture and land stewardship, and  
26 by and within the Iowa grain indemnity board. The bill  
27 includes the following twelve divisions:

28 DIVISION I

29 Section 101: Changes the name of warehouse division to  
30 warehouse bureau.

31 DIVISION II

32 Section 201: Increases the net worth requirements for  
33 class 1 grain dealers from fifty to one hundred thousand  
34 dollars, unless there is a deficiency bond. If there is a  
35 deficiency bond, the amendment increases net worth requirement

1 from twenty-five to fifty thousand dollars.

2 Section 202: Increases the net worth requirement for class  
3 2 grain dealers from twenty-five to fifty thousand dollars,  
4 unless there is a deficiency bond. If there is a deficiency  
5 bond, the amendment increases net worth requirement from ten  
6 to twenty-five thousand dollars.

7 DIVISION III

8 Sections 301 through 304: Class 1 and 2 dealers and  
9 operators who elect to submit a financial statement  
10 accompanied by a review audit, no longer have to submit  
11 interim financial statements, and the department no longer  
12 must inspect them twice each twelve months. The department  
13 may if there is good cause, require a financial statement with  
14 the review audit. "Good cause" is defined as bad checks  
15 issued by the licensee, the existence of a quality or quantity  
16 shortage in a warehouse, or evidence of recordkeeping  
17 violations.

18 DIVISION IV

19 Sections 401 through 403: The current assets of class 1  
20 and class 2 grain dealers is raised from ninety to one hundred  
21 percent of current liabilities. If the dealer acquires a  
22 deficiency bond or irrevocable letter of credit, the current  
23 asset level is increased from forty-five to fifty percent of  
24 current liabilities. The current asset level is raised from  
25 forty-five to fifty percent of current liabilities for grain  
26 dealers purchasing grain on credit.

27 DIVISION V

28 Sections 501 and 502: A person employed or appointed by  
29 the department and acting in connection to the department's  
30 role as receiver or as a merchandiser is protected under the  
31 Iowa tort claims Act.

32 DIVISION VI

33 Sections 601 and 602: The department may disclose information  
34 relating to dealers or operators who present liability to the  
35 indemnity fund.

1 DIVISION VII

2 Sections 701 and 702: The department may deny a license to  
3 a person who has caused liability to the fund or is controlled  
4 by a person who has caused liability to the fund, if the  
5 liability is outstanding.

6 DIVISION VIII

7 Section 801: A single license may be issued to operate two  
8 or more warehouses anywhere in the state.

9 Section 802: Financial statements must be prepared  
10 according to generally rather than normally accepted  
11 accounting principles.

12 Section 803: An application for a license no longer has to  
13 include information relating to a tariff on conditioning of  
14 stored products.

15 Section 804: An insurance company must give ninety rather  
16 than sixty days' notice of cancellation on a warehouse or  
17 dealer. The department must receive notice within seventy-  
18 five days of receipt of notice or else the license is  
19 suspended. If notice of replacement insurance is not received  
20 within ten more days the license is revoked. There is  
21 provision for notice of the revocation and a holder of a  
22 warehouse receipt or person retaining grain in open storage  
23 has thirteen days to remove the grain.

24 DIVISION IX

25 Section 901: The definition of "assessable grain" is  
26 stricken.

27 Section 902: The definition of "seller" does not include a  
28 grain dealer who sells grain to another grain dealer.

29 Section 903: The indemnity fund is created as a separate  
30 account within the state treasury. The fiscal year is broken  
31 into quarters for purposes of collecting fees. Accounting is  
32 done on accrual basis.

33 A new definition is created: "purchased grain" which  
34 replaces assessable grain and means grain which is entered in  
35 the company owned paid position as evidenced on the grain

1 dealer's daily position record. The assessment is geared to  
2 the grain dealer rather than the operator.

3 A per bushel fee must be submitted quarterly. A  
4 delinquency is found when the payment is late or there is an  
5 underpayment. There is a ten dollar minimum penalty for  
6 delinquent payments.

7 Section 904: The full annual fee must be paid before a  
8 dealer or operator's license is issued or renewed or if the  
9 licensee amends a license to move from a class 1 to class 2  
10 license.

11 Section 905: Provides for passing the cost of a per bushel  
12 fee to the seller by a grain dealer if the dealer itemizes the  
13 cost on the settlement sheet.

14 Section 906: Provides for duties and powers of the board.  
15 The board may adopt rules for procedures to determine claims  
16 and shall adopt rules by the department for the per bushel  
17 fee. The department is to adopt rules for the administration  
18 of the per bushel fee upon approval by the board. There is  
19 provision for reporting to the board of investigations of  
20 licensees by the department.

21 Section 907: Strikes reference to "assessable grain".

22 Section 908: Provides notice by publication by the  
23 department when claims may be made against the fund. The  
24 notice must give information relating to procedures for  
25 claiming under the fund. The board is provided authority to  
26 determine eligible claims based on when the claim was filed,  
27 the qualifications of the claimant, whether the claim is  
28 "covered" (e.g., not under credit sale contract), and proof of  
29 claim.

30 The board is provided a means to value a claim. Valuation  
31 is no longer based on fair market price paid for grain to  
32 producers by the three nearest dealers or by a court. The  
33 department will look to the plan of disposition if the  
34 warehouse is in receivership, or the fair market price paid to  
35 producers by a terminal operator nearest to the warehouse

1 operator on either the date of bankruptcy, or license  
2 revocation. A claim by a grain dealer shall be based on the  
3 fair market price paid to producers by the nearest terminal  
4 operator on the date of license revocation or bankruptcy.

5 The board shall provide for notice to depositors and  
6 sellers upon determination of eligibility and value of their  
7 loss. There are procedures set forth for appeals relating to  
8 eligibility and valuations.

9 DIVISION X

10 Sections 1001 and 1002: The national bank for cooperatives  
11 are defined as a financial institution and may extend an  
12 irrevocable letter of credit to dealers and operators.

13 DIVISION XI

14 Section 1101: Changes a legal cite to the Grain Standards  
15 Act.

16 Section 1102: Grain may be stored by operators in federal  
17 warehouses.

18 DIVISION XII

19 Section 1201: The section regulating producers as bonded  
20 grain sellers is repealed.

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HOUSE FILE 533

S- 3592

- 1 Amend House File 533 as follows:  
2 1. Page 1, line 10, by striking the words "one  
3 hundred" and inserting the following: "seventy-five".  
4 2. Page 1, line 15, by striking the words "fifty  
5 thousand" and inserting the following: "thirty-seven  
6 thousand five hundred".  
7 3. Page 1, line 20, by striking the words "fifty  
8 thousand" and inserting the following: "thirty-seven  
9 thousand five hundred".  
10 4. Page 1, line 25, by striking the words  
11 "twenty-five thousand" and inserting the following:  
12 "seventeen thousand five hundred".  
13 5. By striking page 12, line 33, through page 13,  
14 line 3, and inserting the following: "However, if the  
15 grain dealer provides documentation regarding the  
16 transaction satisfactory to the department, the  
17 following transactions shall be excluded from the fee:  
18 a. Grain purchased from the United States  
19 government or any of its subdivisions or agencies.  
20 b. Grain purchased from a person licensed as a  
21 grain dealer in any jurisdiction.  
22 c. Grain purchased under a credit sale contract  
23 entered into on or before the date of delivery.  
24 PARAGRAPH DIVIDED. The grain dealer or-warehouse  
25 operator shall".  
26 6. Page 13, line 6, by striking the word  
27 "license" and inserting the following: "licensee".  
28 7. Page 17, line 19, by striking the words  
29 "transfer of title" and inserting the following:  
30 "incurrence date".

By EMIL J. HUSAK  
JOHN E. SOORHOLTZ  
KENNETH SCOTT

S-3592 FILED APRIL 7, 1989

*Adopted 4/10 (p 1282)*

SENATE AMENDMENT TO HOUSE FILE 533

3976

1 Amend House File 533 as follows:

2 1. Page 1, line 10, by striking the words "one  
3 hundred" and inserting the following: "seventy-five".

4 2. Page 1, line 15, by striking the words "fifty  
5 thousand" and inserting the following: "thirty-seven  
6 thousand five hundred".

7 3. Page 1, line 20, by striking the words "fifty  
8 thousand" and inserting the following: "thirty-seven  
9 thousand five hundred".

10 4. Page 1, line 25, by striking the words  
11 "twenty-five thousand" and inserting the following:  
12 "seventeen thousand five hundred".

13 5. By striking page 12, line 33, through page 13,  
14 line 3, and inserting the following: "However, if the  
15 grain dealer provides documentation regarding the  
16 transaction satisfactory to the department, the  
17 following transactions shall be excluded from the fee:

18 a. Grain purchased from the United States  
19 government or any of its subdivisions or agencies.

20 b. Grain purchased from a person licensed as a  
21 grain dealer in any jurisdiction.

22 c. Grain purchased under a credit sale contract  
23 entered into on or before the date of delivery.

PARAGRAPH DIVIDED. The grain dealer or warehouse  
operator shall".

24 6. Page 13, line 6, by striking the word  
25 "license" and inserting the following: "licensee".

26 7. Page 17, line 19, by striking the words  
27 "transfer of title" and inserting the following:  
28 "incurrence date".

RECEIVED FROM THE SENATE

H-3976 FILED APRIL 12, 1989

HSB 148

Agriculture

*Handwritten mark*

HOUSE FILE 533  
BY (PROPOSED DEPARTMENT OF  
AGRICULTURE AND LAND  
STEWARDSHIP BILL)

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

A BILL FOR

1 An Act relating to the regulation of grain management, by  
2 providing for licensing and regulation of grain dealers and  
3 warehouse operators and the administration of licensing and  
4 regulation within the department of agriculture and land  
5 stewardship.

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

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DIVISION I

Section 101. Sections 542.2, 542.9, 542.10, 542.13, 542A.7, 543.4, and 543.10, Code 1989, are amended by striking from the sections the words "warehouse division" and inserting in lieu thereof the words "warehouse bureau".

DIVISION II

Sec. 201. Section 542.3, subsection 4, paragraph b, Code 1989, is amended to read as follows:

b. The grain dealer shall submit, as required by the department, 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 department 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 department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a grain dealer makes this election the department shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four-month period without good cause, in the manner provided in section 542.9. ~~In addition, the department shall cause a grain dealer who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three calendar month period. However, the department shall not require that a grain dealer submit more than one such report of a certified public accountant per year that is~~

1 based-upon-a-review-performed-in-lieu-of-the-audited-financial  
2 statement: If the department has good cause to believe that  
3 the net worth or current asset to current liability ratio of a  
4 licensee presents a danger to producers or sellers with whom  
5 the licensee deals, the department may require the filing of a  
6 financial statement which is accompanied by the report of a  
7 certified public accountant licensed in this state that is  
8 based upon a review performed by a certified public  
9 accountant. If a grain dealer making the election engages in  
10 credit sale contracts, the grain dealer shall also comply with  
11 the provisions of section 542.15, subsection 8.

12 Sec. 202. Section 542.3, subsection 5, paragraph b, Code  
13 1989, is amended to read as follows:

14 b. The grain dealer shall submit, as required by the  
15 department, a financial statement that is accompanied by an  
16 unqualified opinion based upon an audit performed by a  
17 certified public accountant licensed in this state. However,  
18 the department may accept a qualification in an opinion that  
19 is unavoidable by any audit procedure that is permitted under  
20 generally accepted accounting principles. An opinion that is  
21 qualified because of a limited audit procedure or because the  
22 scope of an audit is limited shall not be accepted by the  
23 department. The department shall not require that a grain  
24 dealer submit more than one such unqualified opinion per year.  
25 The grain dealer may elect, however, to submit a financial  
26 statement that is accompanied by the report of a certified  
27 public accountant licensed in this state, and that is based  
28 upon a review performed by the certified public accountant, in  
29 lieu of the audited financial statement specified in this  
30 paragraph, ~~and if.~~ If a grain dealer makes this election the  
31 department shall cause the grain dealer to be inspected not  
32 less than twice during each twelve-month period, but not more  
33 than five times in a twenty-four-month period without good  
34 cause, in the manner provided in section 542.9. ~~In addition,~~  
35 ~~the department shall cause a grain dealer who makes this~~

1 election-to-submit-to-the-department, in a form and manner  
2 prescribed by the department, an interim financial statement  
3 no less than once in every three calendar month period.  
4 However, the department shall not require that a grain dealer  
5 submit more than one such report of a certified public  
6 accountant per year that is based upon a review performed in  
7 lieu of the audited financial statement. If the department  
8 has good cause to believe that the net worth or current asset  
9 to current liability ratio of a licensee presents a danger to  
10 producers or sellers with whom the licensee deals, the de-  
11 partment may require the filing of a financial statement which  
12 is accompanied by the report of a certified public accountant  
13 licensed in this state that is based upon a review performed  
14 by a certified public accountant. If a grain dealer making  
15 the election engages in credit sale contracts, the grain  
16 dealer shall also comply with ~~the provisions of~~ section  
17 542.15, subsection 8.

18 Sec. 203. Section 543.6, subsection 4, paragraph b, Code  
19 1989, is amended to read as follows:

20 b. The warehouse operator shall submit, as required by the  
21 department, a financial statement that is accompanied by an  
22 unqualified opinion based upon an audit performed by a  
23 certified public accountant licensed in this state. However,  
24 the department may accept a qualification in an opinion that  
25 is unavoidable by any audit procedure that is permitted under  
26 generally accepted accounting principles. An opinion that is  
27 qualified because of a limited audit procedure or because the  
28 scope of an audit is limited shall not be accepted by the  
29 department. The department shall not require that a warehouse  
30 operator submit more than one such unqualified opinion per  
31 year. The warehouse operator may elect, however, to submit a  
32 financial statement that is accompanied by the report of a  
33 certified public accountant licensed in this state, and that  
34 is based upon a review performed by the certified public  
35 accountant, in lieu of the audited financial statement

1 specified in this paragraph, ~~and if.~~ If a warehouse operator  
2 makes this election the department shall cause the warehouse  
3 to be inspected not less than twice during each twelve-month  
4 period, but not more than five times in a twenty-four-month  
5 period without good cause, in the manner provided in section  
6 543.2. ~~In addition, the department shall cause a warehouse~~  
7 ~~operator who makes this election to submit to the department,~~  
8 ~~in a form and manner prescribed by the department, an interim~~  
9 ~~financial statement no less than once in every three calendar-~~  
10 ~~month period.~~ ~~However, the department shall not require that~~  
11 ~~a warehouse operator submit more than one such report of a~~  
12 ~~certified public accountant per year that is based upon a~~  
13 ~~review performed in lieu of the audited financial statement.~~  
14 If the department has good cause to believe that the net worth  
15 or current asset to current liability ratio of a licensee  
16 presents a danger to producers or sellers with whom the  
17 licensee deals, the department may require the filing of a  
18 financial statement which is accompanied by the report of a  
19 certified public accountant licensed in this state that is  
20 based upon a review performed by a certified public  
21 accountant.

## 22 DIVISION III

23 Sec. 301. Section 543.3, Code 1989, is amended by adding  
24 the following new subsection:

25 NEW SUBSECTION. 8. A person employed or appointed by the  
26 department and carrying out the duties of the department  
27 acting as receiver under this chapter shall be deemed to be an  
28 employee of the state as defined in section 25A.2. Chapter  
29 25A is applicable to any claim as defined in section 25A.2  
30 against the person carrying out the duties of the department  
31 acting as receiver.

32 Sec. 302. Section 543.4, subsection 3, unnumbered para-  
33 graph 1, Code 1989, is amended to read as follows:

34 When the court approves the sale of commodities, the  
35 department shall employ a merchandiser to effect the sale of

1 those commodities. A person employed or appointed as a  
2 merchandiser is deemed to be an employee of the state as  
3 defined in section 25A.2 and chapter 25A is applicable to any  
4 claim as defined in section 25A.2 against the person acting as  
5 a merchandiser. A person employed as a merchandiser must meet  
6 the following requirements:

7 DIVISION IV

8 Sec. 401. Section 542.3, subsection 4, paragraph c, Code  
9 1989, is amended to read as follows:

10 c. The grain dealer shall have and maintain current assets  
11 equal to at least ~~ninety~~ one hundred percent of current  
12 liabilities or provide a deficiency bond or an irrevocable  
13 letter of credit under the following conditions:

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

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

30 Sec. 402. Section 542.3, subsection 5, paragraph c, Code  
31 1989, is amended to read as follows:

32 c. The grain dealer shall have and maintain current assets  
33 equal to at least ~~ninety~~ one hundred percent of current  
34 liabilities or provide a deficiency bond or an irrevocable  
35 letter of credit under the following conditions:

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

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

17 DIVISION V

18 Sec. 501. Section 542.16, Code 1989, is amended by adding  
19 the following new subsection:

20 NEW SUBSECTION. 7. Disclosure to the Iowa grain  
21 depositors and sellers indemnity fund board relating to  
22 licensees who present potential liability to the fund.

23 Sec. 502. Section 542.24, Code 1989, is amended by adding  
24 the following new subsection:

25 NEW SUBSECTION. 7. Disclosure to the Iowa grain  
26 depositors and sellers indemnity fund board relating to  
27 licensees who present potential liability to the fund.

28 DIVISION VI

29 Sec. 601. Section 543.6, subsection 1, Code 1989, is  
30 amended to read as follows:

31 1. The department ~~is-authorized~~, upon application to it,  
32 ~~to may~~ may issue to ~~any~~ a warehouse operator or to ~~any~~ a person  
33 about to become a warehouse operator a license ~~er-licenses~~ for  
34 the operation of a warehouse ~~or-warehouses~~ in accordance with  
35 ~~the-provisions-of~~ this chapter and ~~such~~ the rules ~~as-may-be~~

1 ~~made adopted~~ by the department under the ~~authority of~~ section  
2 543.5. A single license to operate two or more warehouses  
3 located within a ~~twenty-five~~ fifty mile radius of a central  
4 office may be issued.

5 Sec. 602. Section 543.6, subsection 3, Code 1989, is  
6 amended to read as follows:

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

18 Sec. 603. Section 543.7, subsection 7, Code 1989, is  
19 amended to read as follows:

20 7. A tariff on a form to be prescribed by the department,  
21 for storage, ~~conditioning of stored products, and~~ receiving  
22 and loadout charges.

23 Sec. 604. Section 543.11, subsection 1, Code 1989, is  
24 amended by adding the following new lettered paragraph and  
25 relettering the subsection as necessary:

26 NEW LETTERED PARAGRAPH. b. If the department receives  
27 notice from an insurance company that insurance is being  
28 canceled by the insurance company, the department shall  
29 automatically suspend the warehouse license if notice of  
30 replacement insurance is not received by the department within  
31 forty-five days of receipt by the department of the notice of  
32 cancellation. The department shall inspect the licensed  
33 warehouse immediately after the automatic suspension of the  
34 license. If notice of insurance is not received by the  
35 department within ten days following suspension, the warehouse

1 license shall be automatically revoked. When a license is  
2 revoked, the department shall notify each holder of an  
3 outstanding warehouse receipt and all known persons who have  
4 grain retained in open storage of the revocation, and shall  
5 further notify each receipt holder and all known persons who  
6 have grain retained in open storage that the grain must be  
7 removed from the warehouse not later than the thirtieth day  
8 following revocation. The notice shall be sent by ordinary  
9 mail to the last known address of each person having grain in  
10 storage as provided in this subsection.

11 DIVISION VII

12 Sec. 701. Section 543.1, subsection 18, Code 1989, is  
13 amended to read as follows:

14 18. "Grain Standards Act" means the United States Grain  
15 Standards Act, ~~as amended to and including January 17, 1977~~ 7  
16 U.S.C. ch. 3.

17 Sec. 702. Section 543.39, unnumbered paragraph 1, Code  
18 1989, is amended to read as follows:

19 A licensed warehouse operator may store grain in any other  
20 ~~licensed~~ warehouse in Iowa ~~in addition to the warehouse~~  
21 ~~operator's own facilities~~ licensed in accordance with section  
22 543.6 or the United States Warehouse Act, 7 U.S.C. ch. 10,  
23 subject to the following conditions:

24 DIVISION VIII

25 Sec. 801. Section 542.18, Code 1989, is repealed.

26 EXPLANATION

27 The bill amends provisions relating to the regulation of  
28 grain warehouses and grain dealers, including the following:

29 DIVISION I

30 Section 101 changes the name of an administrative unit  
31 within the department of agriculture and land stewardship from  
32 the grain warehouse division to the grain warehouse bureau.

33 DIVISION II

34 Sections 201 through 203 provide that a grain warehouse  
35 operator or a grain warehouse dealer who makes an election to

1 submit a financial statement accompanied by a report of a  
2 certified public accountant based on review performed by the  
3 accountant in lieu of an audited financial statement, would no  
4 longer be required to submit interim financial statements.  
5 The bill also removes restrictions on the number of reports of  
6 a certified public accountant that may be required by the  
7 department each year based on a review in lieu of an audit.  
8 The bill also provides that if the department has good cause  
9 to believe that the net worth or current asset to current  
10 liability ratio of a licensee presents a danger to producers  
11 or sellers, the department may require the filing of a  
12 financial statement which is accompanied by the report of a  
13 certified public accountant licensed in this state that is  
14 based on a review performed by a certified public accountant.

15

DIVISION III

16 Sections 301 and 302 provide that a person employed or  
17 appointed by the department and acting as a merchandiser or  
18 employed or appointed by the department and carrying out the  
19 duties of the department acting as receiver, is deemed to be  
20 an employee of the state and the Iowa tort claims Act is  
21 applicable to an appropriate claim against the person.

22

DIVISION IV

23 Sections 401 and 402 relate to the conditions under which a  
24 grain dealer may receive and retain a class 1 or a class 2  
25 license. The dealer must show a level of assets increased  
26 from ninety percent to one hundred percent of the dealer's  
27 current liabilities, or show a level of assets, increased from  
28 forty-five to fifty percent, with a deficiency bond or  
29 irrevocable letter of credit of two thousand dollars for each  
30 one thousand dollars or fraction of one thousand dollars of  
31 current assets, good for six months, or show a level of assets  
32 of less than fifty percent of current liabilities, with a  
33 deficiency bond or irrevocable letter of credit of two  
34 thousand dollars for each one thousand dollars or fraction of  
35 one thousand dollars of current assets, good for only thirty

1 days.

2

DIVISION V

3 Sections 501 and 502 provide that confidential information  
4 relating to potential liability to the grain depositors and  
5 sellers indemnity fund may be disclosed to the Iowa grain  
6 indemnity fund board.

7

DIVISION VI

8 Section 601 provides that a single license may be used for  
9 operating two or more warehouses within a fifty rather than  
10 twenty-five mile radius of a central office.

11 Section 602 provides that financial statements submitted by  
12 applicants for a warehouse license must be prepared according  
13 to "generally" rather than "normally" accepted accounting  
14 principles.

15 Section 603 provides that application for a warehouse  
16 license no longer needs to include information relating to a  
17 tariff on conditioning of stored products.

18 Section 604 provides that a warehouse operator's license  
19 will be suspended after forty-five days of the date that the  
20 department receives notice that insurance on the warehouse has  
21 been cancelled, unless the warehouse is again insured. The  
22 license is automatically revoked if the warehouse is not again  
23 insured within ten days following the suspension.

24

DIVISION VII

25 Section 701 removes January 1, 1977, as the cutoff date  
26 after which amendments to the United States Grain Standards  
27 Act may not be adopted by reference into the Code.

28 Section 702 provides that licensed warehouse operators may  
29 store grain in a warehouse licensed by the department of  
30 agriculture and land stewardship or by the federal government  
31 under the United States Warehouse Act.

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DIVISION VIII

33 Section 801 repeals section 542.18 relating to the  
34 licensure of producers to operate as bonded grain sellers.

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BACKGROUND STATEMENT

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SUBMITTED BY THE AGENCY

DIVISION I

Section 101: Changing the word division to bureau.

DIVISION II

Sections 201 through 203: Removing sentences reading "In addition ....." and "However .....".

The Code of Iowa presently requires the licensed grain dealer who submits a reviewed financial statement for their annual statement to submit an interim financial statement quarterly. This requirement puts an undue burden on the licensee who provides the department with the reviewed statement. The department recommends that the benefits for having interim financial statements filed do not warrant continuing the requirement of filing the interim statement.

The department does feel that we must have the ability to require licensees to provide a financial statement prepared by a certified public accountant other than at year end if the financial condition of the licensee presents an uncertain financial condition. It is vitally important to have the insight of a disinterested third party reviewing the financial condition of a licensee when the licensees' ability to pay producers for grain purchased from them becomes questionable.

DIVISION III

Sections 301 and 302: This bill provides that if the department of agriculture and land stewardship, acting as a receiver of commodities stored in an agricultural warehouse, employs a merchandiser to effect the sale of those commodities, the merchandiser and employees of the merchandiser are considered employees of the state for purposes of the state tort claims Act and may rely upon the state claims Act as a defense in a suit in which a claim is based on the act or omission of the merchandiser or employee.

DIVISION IV

Sections 401 and 402: The ability of a business to meet its current liabilities is reflected in the current ratio.

1 Requiring that a licensee has the ability to meet 100 percent  
2 of the current liabilities is an economically sound  
3 expectation. Increasing the requirement from 90 percent to  
4 100 percent would provide this assurance. Normal business  
5 practice of lending institutions require the 1. to 1. current  
6 ratio. The indemnity fund would be better served with the  
7 higher current ratio requirement.

8 Increasing the minimum requirement for current ratio from  
9 45 percent to 50 percent reflects that the licensee should  
10 meet at least fifty percent of the minimum requirement. With  
11 the current ratio increased to 1. to 1., the minimum  
12 requirement would also be increased.

13 DIVISION V

14 Sections 501 and 502: Permit the disclosure of otherwise  
15 confidential information to the Iowa grain indemnity fund  
16 board.

17 DIVISION VI

18 Section 601: Change twenty-five mile radius to fifty mile  
19 radius.

20 Section 602: Changing the word normally to generally.  
21 This is a language correction to reflect the correct  
22 terminology of "generally accepted accounting principles."  
23 Normally accepted accounting principles is not acceptable  
24 terminology.

25 Section 603: Because this is no longer covered by the  
26 tariff law.

27 Section 604: The present law provides that no action will  
28 be taken until the licensee fails to have insurance coverage.  
29 It should provide for revocation of license at such time that  
30 there is no insurance coverage to allow the department to in-  
31 itiate a receivership and take whatever action is necessary to  
32 protect the assets and minimize or prevent losses to producers  
33 or the indemnity fund.

34 DIVISION VII

35 Section 701: Delete the mentioning of the date of the

1 amendments, so this subsection will always read as current.

2 Section 702: To allow state licensed warehouses the  
3 ability to store grain in a federal warehouse.

4 Section 703:

5 DIVISION VIII

6 Section 801: The bill repeals section 542.18 which allows  
7 a grain producer to apply to the department of agriculture and  
8 land stewardship for a license to operate as a bonded grain  
9 seller.

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HOUSE FILE 533

AN ACT

RELATING TO THE REGULATION OF GRAIN MANAGEMENT, BY PROVIDING FOR LICENSING AND REGULATION OF GRAIN DEALERS AND WAREHOUSE OPERATORS AND THE ADMINISTRATION OF LICENSING AND REGULATION WITHIN THE DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP AND BY THE IOWA GRAIN INDEMNITY BOARD.

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

DIVISION I

Section 101. Sections 542.2, 542.9, 542.10, 542.13, 542A.7, 543.4, and 543.10, Code 1989, are amended by striking from the sections the words "warehouse division" and inserting in lieu thereof the words "warehouse bureau".

DIVISION II

Section 201. Section 542.3, subsection 4, paragraph a, Code 1989, is amended to read as follows:

a. The grain dealer shall have and maintain a net worth of at least fifty seventy-five thousand dollars, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net 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 thirty-seven thousand five hundred dollars.

Sec. 202. Section 542.3, subsection 5, paragraph a, Code 1989, is amended to read as follows:

a. The grain dealer shall have and maintain a net worth of at least twenty-five thirty-seven thousand five hundred dollars, or maintain a deficiency bond or an irrevocable letter of credit in the amount of two thousand dollars for each one thousand dollars or fraction thereof of net deficiency. However, a person shall not be licensed as a class 2 grain dealer if the person has a net worth of less than ten seventeen thousand five hundred dollars.

DIVISION III

Sec. 301. Section 542.3, subsection 4, paragraph b, Code 1989, is amended to read as follows:

b. The grain dealer shall submit, as required by the department, 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 department 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 department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, ~~and if a grain dealer makes this election the department shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four-month period without good cause, in the manner provided in section 542.9. In addition, the department shall cause a grain dealer who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three calendar month period. However, the department shall not require that a grain dealer submit more than one~~

such report of a certified public accountant per year that is based upon a review performed in lieu of the audited financial statement. However, at any time the department may require 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 a certified public accountant if the department has good cause to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements. If a grain dealer making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8.

Sec. 302. Section 542.3, subsection 5, paragraph b, Code 1989, is amended to read as follows:

b. The grain dealer shall submit, as required by the department, 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 department 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 department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph, and if a grain dealer makes this election the department shall cause the grain dealer to be inspected not less than twice during each twelve-month period, but not more than five times

in a twenty-four-month period without good cause, in the manner provided in section 542.9. In addition, the department shall cause a grain dealer who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three calendar-month period. However, the department shall not require that a grain dealer submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the audited financial statement. However, at any time the department may require 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 a certified public accountant if the department has good cause to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements. If a grain dealer making the election engages in credit sale contracts, the grain dealer shall also comply with the provisions of section 542.15, subsection 8.

Sec. 303. Section 543.6, subsection 4, paragraph b, Code 1989, is amended to read as follows:

b. The warehouse operator shall submit, as required by the department, 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 department 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 department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a

financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph; ~~and if a warehouse operator makes this election the department shall cause the warehouse to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four-month period without good cause, in the manner provided in section 543.2. In addition, the department shall cause a warehouse operator who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three calendar month period. However, the department shall not require that a warehouse operator submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the audited financial statement. However, at any time the department may require 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 a certified public accountant if the department has good cause to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements.~~

Sec. 304. Section 543.6, subsection 5, paragraph b, Code 1989, is amended to read as follows:

b. The warehouse operator shall submit, as required by the department, 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 department 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 department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph; ~~and if a warehouse operator makes this election the department shall cause the warehouse to be inspected not less than twice during each twelve-month period, but not more than five times in a twenty-four-month period without good cause, in the manner provided in section 543.2. In addition, the department shall cause a warehouse operator who makes this election to submit to the department, in a form and manner prescribed by the department, an interim financial statement no less than once in every three calendar month period. However, the department shall not require that a warehouse operator submit more than one such report of a certified public accountant per year that is based upon a review performed in lieu of the audited financial statement. However, at any time the department may require 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 a certified public accountant if the department has good cause to believe that the net worth or current asset to current liability ratio of a licensee presents a danger to producers or sellers with whom the licensee deals. "Good cause" means that the department has evidence that the licensee issued checks on insufficient funds, evidence of a quality or quantity shortage in a warehouse facility, or evidence of violations of recordkeeping requirements.~~

Sec. 401. Section 542.3, subsection 4, paragraph c, Code 1989, is amended to read as follows:

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

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

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

Sec. 402. Section 542.3, subsection 5, paragraph c, Code 1989, is amended to read as follows:

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

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

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

Sec. 403. Section 542.15, subsection 7, Code 1989, is amended to read as follows:

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

#### DIVISION V

Sec. 501. Section 543.3, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A person employed or appointed by the department and carrying out the duties of the department acting as receiver under this chapter shall be deemed to be an employee of the state as defined in section 25A.2. Chapter 25A is applicable to any claim as defined in section 25A.2 against the person carrying out the duties of the department acting as receiver.

Sec. 502. Section 543.4, subsection 3, unnumbered paragraph 1, Code 1989, is amended to read as follows:

When the court approves the sale of commodities, the department shall employ a merchandiser to effect the sale of those commodities. A person employed or appointed as a merchandiser is deemed to be an employee of the state as defined in section 25A.2 and chapter 25A is applicable to any claim as defined in section 25A.2 against the person acting as a merchandiser. A person employed as a merchandiser must meet the following requirements:

#### DIVISION VI

Sec. 601. Section 542.16, Code 1989, is amended by adding the following new subsection and renumbering the subsequent subsections:

NEW SUBSECTION. 3. Disclosure to the Iowa grain indemnity fund board in regard to licensees who present liability to the fund.

Sec. 602. Section 543.24, Code 1989, is amended by adding the following new subsection and renumbering the subsequent subsections:

NEW SUBSECTION. 3. Disclosure to the Iowa grain indemnity fund board in regard to licensees who present liability to the fund.

DIVISION VII

Sec. 701. Section 542.5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department may deny a license to an applicant if any of the following apply:

1. The applicant has caused liability to the Iowa grain depositors and sellers indemnity fund in regard to a license issued under this chapter or chapter 543, and the liability has not been discharged, settled, or satisfied.

2. The applicant is owned or controlled by a person who has caused liability to the fund through operations under a license issued under this chapter or chapter 543 and the liability has not been discharged, settled, or satisfied.

Sec. 702. Section 543.6, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. The department may deny a license to an applicant if any of the following apply:

a. The applicant has caused liability to the Iowa grain depositors and sellers indemnity fund through operations under a license issued under this chapter or chapter 542, and the liability has not been discharged, settled, or satisfied.

b. The applicant is owned or controlled by a person who has caused liability to the fund through operations under a license issued under this chapter or chapter 542, and the liability has not been discharged, settled, or satisfied.

DIVISION VIII

Sec. 801. Section 543.6, subsection 1, Code 1989, is amended to read as follows:

1. The department ~~is authorized~~, upon application to it, to may issue to any a warehouse operator or to any a person about to become a warehouse operator a license ~~or licenses~~ for the operation of a warehouse ~~or warehouses~~ in accordance with ~~the provisions of this chapter and such the rules as may be made adopted~~ by the department under the authority of section 543.5. A single license to operate two or more warehouses located anywhere within a ~~twenty-five-mile-radius-of-a-central office~~ the state may be issued.

Sec. 802. Section 543.6, subsection 3, Code 1989, is amended to read as follows:

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 generally accepted accounting principles. Assets shall be shown at original cost less depreciation. Upon written request, the department ~~or a designated employee~~ may allow asset valuations in accordance with a competent appraisal. 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.

Sec. 803. Section 543.7, subsection 7, Code 1989, is amended to read as follows:

7. A tariff on a form to be prescribed by the department; for storage, ~~conditioning-of-stored-products, and receiving and loadout charges.~~

Sec. 804. Section 543.15, unnumbered paragraph 1, Code 1989, is amended to read as follows:

All agricultural products in storage in a licensed warehouse and all agricultural products which have been deposited temporarily in a licensed warehouse pending storage or for purposes other than storage, shall be kept fully insured by the warehouse operator for the current value of the agricultural products against loss by fire, inherent explosion, or windstorm.

PARAGRAPH DIVIDED. The insurance shall be carried in an insurance company or companies authorized to do business in this state, and evidence of the insurance coverage in a form approved by the department shall be filed with the department. An insurance policy shall not be canceled by the insurance company on less than sixty ninety days' notice by certified mail to the department and the principal unless the policy is being replaced with another policy and evidence of the new policy is filed with the department at the time of cancellation of the policy on file. The insurance shall be provided by, and carried in the name of, the warehouse operator. However, whenever the department shall receive notice from an insurance company that it has canceled the insurance of a licensed warehouse, the department shall automatically suspend the warehouse license if replacement insurance is not received by the department within seventy-five days of receipt of the notice of cancellation. The department shall cause an inspection of the licensed warehouse immediately at the end of the seventy-five day period. If replacement insurance is not filed within another ten days following suspension, the warehouse license shall be automatically revoked. When a license is revoked, the department shall notify each holder of an outstanding warehouse receipt and all known persons who have grain retained in open storage of the revocation. The department shall further notify each receipt holder and all known persons who have grain retained in open storage that the grain must be removed from the warehouse not later than the thirtieth day following the revocation. The notice shall be sent by ordinary mail to the last known address of each person having grain in storage as provided in this subsection. Claimants against the insurance have precedence in the following order:

## DIVISION IX

Sec. 901. Section 543A.1, subsection 1, Code 1989, is amended by striking the subsection.

Sec. 902. Section 543A.1, subsection 10, Code 1989, is amended to read as follows:

10. "Seller" means a person who sells grain which the person has produced or caused to be produced to a licensed grain dealer, but excludes a person who executes a credit sale contract as a seller. However, "seller" does not include a person licensed as a grain dealer in any jurisdiction who sells grain to a licensed grain dealer.

Sec. 903. Section 543A.3, subsections 1 and 2, Code 1989, is amended to read as follows:

1. The grain depositors and sellers indemnity fund is created in the state treasury as a separate account. The general fund of the state is not liable for claims presented against the grain depositors and sellers indemnity fund under section 543A.6. The fund consists of a per-bushel fee on assessable purchased grain remitted by licensed grain dealers and licensed warehouse operators; an annual fee charged to and remitted by licensed grain dealers and licensed warehouse operators; delinquency penalties; sums collected by the department by legal action on behalf of the fund; and interest, property, or securities acquired through the use of moneys in the fund. The fiscal year of the fund begins July 1. Fiscal quarters of the fund begin July 1, October 1, January 1, and April 1. The finances of the fund shall be calculated on an accrual basis in accordance with generally accepted accounting principles. The moneys collected under this section and deposited in the fund shall be used exclusively to indemnify depositors and sellers as provided in section 543A.6 and to pay the administrative costs of this chapter.

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

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

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

c. Grain purchased under a credit sale contract entered into on or before the date of delivery.

PARAGRAPH DIVIDED. The grain dealer or warehouse operator shall forward the per-bushel fee to the department on a quarterly basis in the manner and using the forms prescribed by the department. A licensee is delinquent if the licensee fails to submit the full fee or quarterly forms when due, or if upon examination, an underpayment of the fee is found by the department. ~~if the per-bushel fee has not been received by the department by the date required by the department.~~ The grain dealer or warehouse operator is subject to a penalty of ten dollars for each day the grain dealer or warehouse operator is delinquent or an amount equal to the amount of the deficiency, whichever is less. However, a licensee who fails to submit the full fee or quarterly forms when due, is subject to a minimum payment of ten dollars. The department may establish and apply a margin of error in determining whether a grain dealer or warehouse operator is delinquent. If the per-bushel fee has and any penalty due have not been received by the department within thirty days after the payment was due notice by the department, the grain dealer's or warehouse operator's license shall be suspended. The per-bushel fee shall be collected only once on each bushel of grain.

Sec. 904. Section 543A.3, subsection 4, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

4. Payment of the full annual fee shall be made before a grain dealer's or warehouse operator's license is issued or renewed. If a licensee amends its license during the fiscal year for which an annual fee was paid, and the licensing entity remains the same, the licensee is required to pay a further fee only if the amendment changes the licensee's class from class 2 to class 1.

Sec. 905. Section 543A.3, Code 1989, is amended by adding the following new subsection:

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

Sec. 906. Section 543A.4, Code 1989, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The duties of the board include the review and determination of claims, and the review and approval of administrative costs of the fund. To carry out these duties, the board has the power to adopt rules regarding its organization and procedures for determining claims. Further, the board shall approve rules proposed by the department for the administration of the per-bushel fee prior to their adoption by the department. The board may provide comment and advice to the department in regard to the department's administration of chapters 542 and 543 where the department's policies and rules may affect the exposure of the fund to liability. However, the board shall not become actively involved in a determination by the department as to whether disciplinary action is to be taken against a particular licensee. The board is not a forum for review or appeal in regard to any particular action taken by the department against a licensee.

NEW UNNUMBERED PARAGRAPH. The department through the grain warehouse bureau shall perform the administrative functions necessary for the operation of the board and the fund. Administrative costs approved by the board shall be paid from the fund. The rules of the department shall contain the rules of the board adopted for its organization and its procedures. The department shall adopt rules for the administration of the per-bushel fee upon the board's approval of the rules proposed by the department. The secretary of agriculture, as president of the board as well as head of the department of agriculture

and land stewardship, shall administer the department so as to minimize the risk of loss to the fund while protecting interests of depositors and sellers of grain. Policies and rules for the administration of chapters 542 and 543 which, as determined by the secretary of agriculture, may affect the exposure of the fund, shall be presented to the board for comment prior to their adoption by the department. The department shall make reports to the board in regard to licensee investigations which may result in disciplinary action against a licensee and exposure of the fund. The reports may be discussed by the board in closed session pursuant to section 21.5, and are confidential. In making the report, the department shall make available to the board records of licensees which are otherwise confidential under section 22.7, 542.16, or 543.24. However, a determination to take disciplinary action against a particular licensee shall be made exclusively by the department. A report to the board is not a prerequisite to disciplinary action against a licensee. Review of any action against a licensee, whether or not relating to the fund, shall be made exclusively through the department.

Sec. 907. Section 543A.5, subsection 1, Code 1989, is amended to read as follows:

1. The board shall review annually the debits of and credits to the grain depositors and sellers indemnity fund created in section 543A.3 and shall make any adjustments in the per-bushel fee required under section 543A.3, subsection 2, and the dealer-warehouse fee required under section 543A.3, subsection 3, that are necessary to maintain the fund within the limits established under this section. Not later than the first day of May of each year, the board shall determine the proposed amount of the per bushel fee based on the expected volume of grain on which the fee is to be collected and that is likely to be handled under this chapter, and shall also determine any adjustment to the dealer-warehouse fee. The board shall make any changes in the previous year's fees in accordance with chapter 17A. Changes in the fees shall become

effective on the following first day of July. The per bushel fee shall not exceed one-quarter cent per bushel on all assessable purchased grain as defined in section 543A.3. Until the per-bushel fee is adjusted or waived as provided in this section, the per-bushel fee is one-quarter cent on all assessable purchased grain.

Sec. 908. Section 543A.6, Code 1989, is amended to read as follows:

543A.6 CLAIMS AGAINST FUND.

1. PERSONS WHO MAY FILE CLAIMS -- TIME OF FILING. A depositor or seller may file a claim concerning assessable grain with the department for indemnification of a loss from the grain depositors and sellers indemnity fund. A claim shall be filed in the manner prescribed by the board. A claim shall not be filed prior to the incurrence date, which is the earlier of the following:

- a. The revocation, termination, or cancellation of the license of the grain dealer or warehouse operator, or the
- b. The filing of a petition in bankruptcy by a grain dealer or warehouse operator.

PARAGRAPH DIVIDED. However, to be timely, a claim shall be filed within one hundred twenty days of the revocation, termination, or cancellation of the license of the grain dealer or warehouse operator;--The value of a loss is to be measured as follows: incurrence date.

2. NOTICE. The department shall cause notice of the opening of the claim period to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state. The notice shall state the name and address of the licensee and the claim incurrence date. The notice shall also state that any claims against the fund on account of the licensee shall be sent by ordinary mail to the department within one hundred twenty days after the incurrence date, and that the failure to make a timely claim relieves the fund from liability to the claimant. This notice may be

incorporated by the department with a notice required by section 542.12 or 543.14.

3. DETERMINATION OF ELIGIBLE CLAIMS. The board shall determine a claim to be eligible for payment from the fund if the board finds all of the following:

- a. That the claim was timely filed.
- b. That the incurrence date was on or after May 15, 1986.
- c. That the claimant qualifies as a depositor or seller.
- d. That the claim derives from a covered transaction. For purposes of this paragraph, a claim derives from a covered transaction if the claimant is a seller who transferred title to the grain to the grain dealer other than by credit sale contract within six months of the incurrence date, or if the claimant is a depositor who delivered the grain to the warehouse operator.
- e. That there is adequate documentation to establish the existence of a claim and to determine the amount of the loss.

a 4. VALUE OF LOSS -- WAREHOUSE CLAIMS. The board shall determine the dollar value of a claim incurred by a depositor holding a warehouse receipt or a scale weight ticket for grain that the depositor delivered for storage to the licensed warehouse operator or grain-dealer. The value shall be based on the average fair market price being paid for the grain to producers by the three licensed grain-dealers nearest the warehouse operator or grain-dealer on the earlier of the following:

- (1) The date of license revocation, termination, or cancellation;
  - (2) The date on which the licensed warehouse operator or licensed grain-dealer filed a petition in bankruptcy;
- If the department has been appointed by the court as receiver of the grain assets of the warehouse operator, the value shall be presumed to be as stated in the plan of disposition approved by the court. If the warehouse operator has filed a petition in bankruptcy, the value shall be presumed to be based upon the fair market price, free-on-board from the site of the warehouse operator, being paid to producers for grain

by the grain terminal operator nearest the warehouse operator on the date the petition was filed. If there is neither a department receivership nor a bankruptcy filing, the value shall be presumed to be based upon the fair market price, free-on-board from the site of the warehouse operator, being paid to producers for grain by the grain terminal operator nearest the warehouse operator on the date of license revocation or cancellation. If more than one date applies to a claim, the board may choose between the two. However, the board may accept the an alternative valuation of a claim as determined by a court of competent jurisdiction as the value of the claim upon a showing of just cause by the depositor or department. All depositors filing claims under this section shall be bound by the value determined by the board. The value of the loss is the outstanding balance on the validated claim at time of payment from the fund.

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

2. The grain depositors and sellers indemnity fund is liable to a depositor or seller for a claim which arises on or after May 15, 1986, for ninety percent of the loss, as determined under subsection 4, but not more than one hundred fifty thousand dollars per claimant.

3. The board shall determine the validity of all claims presented against the fund.

6. PROCEDURE -- APPEAL. The board, through the department, shall provide for notice to each depositor and seller upon its determination of eligibility and value of loss. Within twenty days of the notice, the depositor or seller may request a hearing for the review of either determination. The request shall be made in the manner provided by the board. The hearing and any further appeal shall be conducted as a contested case subject to chapter 17A.

A depositor or seller whose claim has been refused by the board may appeal the refusal to either the district court of Polk county or the district court of the county in which the depositor or seller resides. The board shall provide for payment from the fund to a depositor or seller whose claim has been found to be valid:

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

7. PAYMENT OF CLAIMS. Upon a determination that the claim is eligible for payment, the board shall provide for payment of ninety percent of the loss, as determined under subsection 4, but not more than one hundred fifty thousand dollars per claimant. If at any time the board determines that there are insufficient funds to make payment of all claims, the board may order that payment be deferred on specified claims. The department, upon the board's instruction, shall hold those claims for payment until the board determines that the fund again contains sufficient assets.

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

#### DIVISION X

Sec. 1001. Section 542.1, subsection 9, Code 1989, is amended to read as follows:

9. "Financial institution" means a bank or savings and loan association authorized by the state of Iowa or by the laws of the United States, which is a member of the federal deposit insurance corporation or the federal savings and loan insurance corporation, respectively; or the national bank for cooperatives established in the Agricultural Credit Act, Pub. L. No. 100-233.

Sec. 1002. Section 543.1, subsection 25, Code 1989, is amended to read as follows:

25. "Financial institution" means a bank or savings and loan association authorized by the state of Iowa or by the laws of the United States, which is a member of the federal deposit insurance corporation or the federal savings and loan insurance corporation, respectively; or the national bank for cooperatives established in the Agricultural Credit Act, Pub. L. No. 100-233.

#### DIVISION XI

Sec. 1101. Section 543.1, subsection 18, Code 1989, is amended to read as follows:

18. "Grain Standards Act" means the United States Grain Standards Act, as amended to and including January 1, 1977; U.S.C. ch. 3.

Sec. 1102. Section 543.39, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A licensed warehouse operator may store grain in any other licensed warehouse in Iowa ~~in addition to the warehouse operator's own facilities~~ licensed in accordance with section 543.6 or the United States Warehouse Act, 7 U.S.C. ch. 10, subject to the following conditions:

DIVISION XII

Sec. 1201. Section 542.18, Code 1989, is repealed.

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DONALD D. AVENSON  
Speaker of the House

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JO ANN ZIMMERMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 533, Seventy-third General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved May 8, 1989

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TERRY E. BRANSTAD  
Governor