

# Senate Study Bill 2214

## Bill Text

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1 1 Section 1. LEGISLATIVE FINDINGS. The general assembly  
1 2 finds and declares all of the following:  
1 3 1. a. The economic structure of agriculture, including  
1 4 the production of agricultural commodities and the processing  
1 5 and marketing of agricultural products, is undergoing a period  
1 6 of rapid transformation.  
1 7 (1) Longstanding government programs supporting prices for  
1 8 agricultural commodities are being phased out, and new  
1 9 technologies and management arrangements are creating large  
1 10 scale integrated systems for producing and processing  
1 11 agricultural commodities, and marketing agricultural processed  
1 12 products.  
1 13 (2) An increasing world demand exists for high quality  
1 14 agricultural products caused by the simultaneous reduction of  
1 15 trade barriers among nations and an increase in income of  
1 16 those nations' populations.  
1 17 b. The ability of this state and its agricultural  
1 18 producers to adapt to these forces and their consequences at  
1 19 the threshold of the twenty-first century will determine the  
1 20 degree to which this state will prosper.  
1 21 2. a. A need exists for additional sources of financing  
1 22 for local agricultural producer-led ventures to expand  
1 23 production, processing, and marketing of high value  
1 24 agricultural products, to organize new business structures  
1 25 within the state to carry out these ventures, and to market  
1 26 and deliver increasingly high value agricultural products to  
1 27 consumers around the world.  
1 28 b. Traditional channels of financing and business  
1 29 organization have not been adequate to address this need.  
1 30 c. A trend toward corporate vertical integration in the  
1 31 production, processing, and marketing of agricultural products  
1 32 exists which requires agricultural producers to develop  
1 33 innovative cooperative ventures in order to successfully  
1 34 compete in a changing marketplace.  
1 35 3. It is necessary for the state to authorize the  
2 1 formation of private corporations in order to provide sources  
2 2 of investment capital to encourage agricultural producer-led  
2 3 ventures, including providing limited state financial support  
2 4 necessary to stimulate these ventures.  
2 5 4. All of the purposes stated in this Act are public  
2 6 purposes. All of the following is necessary in order to  
2 7 satisfy the intent and promote the purposes of this Act:  
2 8 a. The authorization of the formation of Iowa agricultural  
2 9 industry finance corporations as provided in this Act,  
2 10 including authorizing persons to facilitate the formation of a  
2 11 private corporation.  
2 12 b. The use of public moneys to support activities  
2 13 identified in this Act, including funding Iowa agricultural  
2 14 industry finance corporations, making available loans to  
2 15 initiate ventures as provided in this Act, and providing  
2 16 incentives included in this Act for qualified Iowa  
2 17 agricultural industry financing corporations.  
2 18 DIVISION XIX  
2 19 IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATIONS  
2 20 Sec. 2. NEW SECTION. 15E.201 SHORT TITLE.  
2 21 This division shall be known and may be cited as the "Iowa

2 22 Agricultural Industry Finance Act".  
2 23 Sec. 3. NEW SECTION. 15E.202 DEFINITIONS.  
2 24 Except as otherwise provided in this division, or unless  
2 25 the context otherwise requires, the words and phrases used in  
2 26 this division shall have the same meaning as the words and  
2 27 phrases used in chapter 490, including but not limited to the  
2 28 words and phrases used in section 490.140. In addition, all  
2 29 of the following shall apply:  
2 30 1. "Actively engaged in agriculture" means to do any of  
2 31 the following:  
2 32 a. Inspect agricultural operations periodically and  
2 33 furnish at least half the direct cost of the operations.  
2 34 b. Regularly and frequently make or take an important part  
2 35 in making management decisions substantially contributing to  
3 1 or affecting the success of the agricultural operation.  
3 2 c. Perform physical work which significantly contributes  
3 3 to agricultural operation.  
3 4 2. "Agricultural commodity" means any unprocessed  
3 5 agricultural product, including livestock as defined in  
3 6 section 717.1, agricultural crops, and forestry products  
3 7 grown, raised, produced, or fed in this state for sale in  
3 8 commercial channels.  
3 9 3. "Agricultural operation" means an operation concerned  
3 10 with the production of agricultural commodities for processing  
3 11 into agricultural processed products.  
3 12 4. "Agricultural processed product" means an agricultural  
3 13 commodity that has been processed for sale in commercial  
3 14 markets.  
3 15 5. "Agricultural producer" means a person who is any of  
3 16 the following:  
3 17 a. An individual actively engaged in agricultural  
3 18 production.  
3 19 b. A person other than an individual, if the person is any  
3 20 of the following:  
3 21 (1) A general partnership in which all the partners are  
3 22 natural persons, and one of the partners is actively engaged  
3 23 in agricultural production.  
3 24 (2) A family farm corporation as defined in section 9H.1,  
3 25 if a shareholder and an officer, director, or employee of the  
3 26 corporation is actively engaged in agricultural production.  
3 27 (3) A family farm limited liability company as defined in  
3 28 section 9H.1, if a member or manager of the family farm  
3 29 limited liability company is actively engaged in agricultural  
3 30 production.  
3 31 6. "Agricultural product" means an agricultural commodity  
3 32 or an agricultural processed product.  
3 33 7. "Certified facility" means a facility used to process  
3 34 agricultural products as certified by a corporation pursuant  
3 35 to section 15E.210.  
4 1 8. "Department" means the department of economic  
4 2 development as created in section 15.101.  
4 3 9. "Economic development board" means the economic  
4 4 development board created pursuant to section 15.103.  
4 5 10. "Iowa agricultural industry finance corporation" or  
4 6 "corporation" means a corporation formed under this division.  
4 7 11. "Iowa agricultural industry finance loan" means a loan  
4 8 made to a qualified Iowa agricultural industry finance  
4 9 corporation pursuant to section 15E.208.  
4 10 12. "Loan" means providing financing to a person under an  
4 11 agreement requiring that the amount in financing be repaid at  
4 12 a maturity date, with an interest rate, and other conditions  
4 13 as specified in the agreement.  
4 14 13. "Qualified investor" means any of the following:  
4 15 a. An agricultural producer.  
4 16 b. A family farm corporation, family farm limited  
4 17 liability company, family farm limited partnership, or family  
4 18 trust, all as defined in section 9H.1.

4 19 c. A cooperative corporation organized under chapter 501.  
4 20 d. A networking farmers entity as defined in section 10.1.  
4 21 14. "Qualified Iowa agricultural industry finance  
4 22 corporation" or "qualified corporation" means an Iowa  
4 23 agricultural industry financing corporation which meets the  
4 24 eligibility requirements of and is approved by the department  
4 25 pursuant to section 15E.208.

4 26 Sec. 4. NEW SECTION. 15E.203 FINDINGS INTENT AND  
4 27 PURPOSES.

4 28 1. The general assembly finds that this state is in a  
4 29 period when the economic structure of agriculture and the  
4 30 production, processing, and marketing of agricultural products  
4 31 is undergoing a period of rapid transformation.

4 32 2. It is the intent of the general assembly and purpose of  
4 33 this division that this state capture the greatest benefit  
4 34 from opportunities created during this period, by encouraging  
4 35 local agricultural producer-led ventures to expand production  
5 1 and processing of high value agricultural products, including  
5 2 agricultural processed products, to organize new business  
5 3 structures within the state to carry out these ventures, and  
5 4 to market and deliver increasingly high value agricultural  
5 5 products to consumers around the world. In carrying out this  
5 6 purpose, state resources provided by this Act shall be used to  
5 7 assure all of the following:

5 8 a. That the majority of the wealth created by Iowa  
5 9 agricultural productivity is retained in this state.

5 10 b. That employment in the production, processing, and  
5 11 marketing of agricultural products, and especially  
5 12 agricultural processed products, is increased in this state.

5 13 c. That agricultural producers in this state are provided  
5 14 with an opportunity to acquire a majority ownership interest  
5 15 in agricultural production, processing, and marketing ventures  
5 16 promoted under this division.

5 17 d. That this state becomes a world model for agricultural  
5 18 producer-based vertical cooperation which depends upon broadly  
5 19 shared access to information, capital, and cooperative action.

5 20 e. That the use of private resources with state incentives  
5 21 establish Iowa as the world leader in responsibly produced  
5 22 agricultural products that meet the needs of consumers  
5 23 throughout the world.

5 24 Sec. 5. NEW SECTION. 15E.204 IOWA AGRICULTURAL INDUSTRY  
5 25 FINANCE CORPORATIONS SCOPE OF POWERS AND DUTIES.

5 26 1. An Iowa agricultural industry finance corporation  
5 27 formed under this division shall be subject to and have the  
5 28 powers and privileges conferred by provisions of chapter 490,  
5 29 unless otherwise limited by or inconsistent with the  
5 30 provisions of this division.

5 31 2. Nothing in this division requires any of the following:

5 32 a. That a limited number of Iowa agricultural industry  
5 33 finance corporations are authorized to be formed. However,  
5 34 the department may strictly interpret and apply the  
5 35 requirements of this division in determining whether a  
6 1 corporation is a qualified corporation under section 15E.208.

6 2 b. That a corporation be organized on a cooperative basis,  
6 3 including structured, organized, or operated pursuant to 26  
6 4 U.S.C. } 1381(a).

6 5 c. That a corporation is restricted from holding,  
6 6 acquiring, or transferring financial or security instruments,  
6 7 including but not limited to a security regulated under  
6 8 chapter 502, money, accounts, and chattel paper under chapter  
6 9 554, security interests under chapter 554, or a mortgage or  
6 10 deed of trust under chapter 654.

6 11 3. An Iowa agricultural industry finance corporation is a  
6 12 private business corporation and not a public corporation or  
6 13 instrumentality of the state. Except as provided in this  
6 14 division, nothing in this division exempts an Iowa  
6 15 agricultural industry finance corporation from the same

6 16 requirements under state law which apply to other corporations  
6 17 organized under chapter 490, including taxation provisions  
6 18 under chapter 422 or Title X, subtitle 2 of this Code, or  
6 19 security regulations under chapter 502.

6 20 Sec. 6. NEW SECTION. 15E.205 IOWA AGRICULTURAL INDUSTRY  
6 21 FINANCE CORPORATIONS REQUIREMENTS.

6 22 1. A corporation incorporated under chapter 490 is an Iowa  
6 23 agricultural industry finance corporation, if the corporation  
6 24 complies with the requirements of this section and section  
6 25 15E.206. In addition to the other requirements for a  
6 26 corporation organized under chapter 490, all of the following  
6 27 shall apply:

6 28 a. At least fifty-one percent of the corporation's common  
6 29 stock must be held by agricultural producers. At least fifty-  
6 30 one percent of the corporation's voting stock must be held by  
6 31 agricultural producers.

6 32 b. The purpose of the corporation must be limited to  
6 33 providing financing to eligible persons under section 15E.210  
6 34 who are engaging in ventures limited to establishing a  
6 35 cooperative structure in which agricultural producers produce  
7 1 agricultural commodities for processing and marketing as  
7 2 agricultural processed products.

7 3 2. The requirements of this section shall be memorialized  
7 4 in the corporation's articles of incorporation.

7 5 Sec. 7. NEW SECTION. 15E.206 FORMATION OF AN IOWA  
7 6 AGRICULTURAL INDUSTRY FINANCE CORPORATION.

7 7 1. This section authorizes the formation of Iowa  
7 8 agricultural industry finance corporations in order to perfect  
7 9 the manner in which such corporations are formed and operate.  
7 10 Such a corporation is a private business corporation and not a  
7 11 public corporation or instrumentality of the state. The  
7 12 corporation shall not enjoy any of the privileges nor be  
7 13 required to comply with any of the requirements of a state  
7 14 agency.

7 15 2. In facilitating the formation of an Iowa agricultural  
7 16 industry finance corporation, the following persons shall  
7 17 serve as incorporators as provided in section 490.201:

7 18 a. The chairperson of the economic development board or a  
7 19 designee of the chairperson.

7 20 b. The director of the department of economic development,  
7 21 or a designee of the director.

7 22 c. The secretary of agriculture or a designee of the  
7 23 secretary.

7 24 3. After incorporation, such a corporation shall be  
7 25 organized by an initial board of directors as provided in  
7 26 chapter 490, division II. The initial board of directors  
7 27 shall be elected as follows:

7 28 a. An interim board of directors for the corporation,  
7 29 composed of the members of the economic development board,  
7 30 shall appoint a nominating committee. The members of the  
7 31 nominating committee shall include persons who have an  
7 32 expertise in areas of banking, agricultural lending, business  
7 33 development, agricultural production and processing, seed and  
7 34 venture capital investment, and other areas of expertise as  
7 35 deemed appropriate by the interim board of directors.

8 1 b. Members of the interim board of directors and members  
8 2 of the nominating committee shall hold a joint meeting to  
8 3 elect five initial board of directors from the list of  
8 4 candidates nominated by the nominating committee.

8 5 c. Upon the election of the initial board of directors,  
8 6 the terms of the interim board of directors and the nominating  
8 7 committee shall expire.

8 8 4. The department shall assist the incorporators, the  
8 9 interim board of directors, and the nominating committee in  
8 10 any manner determined necessary and appropriate by the  
8 11 economic development board and the director of the department  
8 12 in order to administer this section.

8 13 Sec. 8. NEW SECTION. 15E.207 IOWA AGRICULTURAL INDUSTRY  
8 14 FINANCE CORPORATIONS GUIDING PRINCIPLES.

8 15 In carrying out its duties and exercising its powers under  
8 16 this division, an Iowa agricultural industry finance  
8 17 corporation shall be guided by the following principles:

8 18 1. The corporation must exercise diligence and care in the  
8 19 selection of persons and projects to receive financing as  
8 20 provided in section 15E.210. The corporation must apply  
8 21 customary and acceptable business and lending standards and  
8 22 practices in selecting persons and projects designated for  
8 23 financing and managing agreements under which financing is  
8 24 provided.

8 25 2. Except as otherwise provided in this section, the  
8 26 corporation shall not become an owner of real or depreciable  
8 27 property, including agricultural land, as provided in section  
8 28 9H.4. However, this subsection shall not preclude the  
8 29 corporation from holding an interest in real or depreciable  
8 30 property if any of the following apply:

8 31 a. The corporation holds nonagricultural property for  
8 32 purposes of carrying out the management of its corporate  
8 33 affairs, including office space, furniture, and supplies.

8 34 b. The corporation holds an interest in real or  
8 35 depreciable property on a temporary basis, and any of the  
9 1 following apply:

9 2 (1) The interest is a bona fide encumbrance taken for  
9 3 purposes of security in connection with providing financing  
9 4 under section 15E.210.

9 5 (2) The interest is acquired by operation of law,  
9 6 including by any of the following:

9 7 (a) Devise or bequest.

9 8 (b) Court order.

9 9 (c) Dissolution under chapter 490, division XIV.

9 10 (d) Order in bankruptcy.

9 11 (e) Pursuant to a proceeding to enforce a debt against  
9 12 real property under chapter 654, to forfeit a contract to  
9 13 purchase real property under chapter 656, to enforce a secured  
9 14 interest in real or depreciable property under chapter 554, or  
9 15 to otherwise garnish, levy on, execute on, seize, or attach  
9 16 real or depreciable property in the collection of debts, or by  
9 17 any procedure for the enforcement of a lien or claim.

9 18 (3) The interest is acquired in order to facilitate a  
9 19 transfer between persons pursuant to a transaction authorized  
9 20 under this division.

9 21 Sec. 9. NEW SECTION. 15E.208 QUALIFIED CORPORATIONS  
9 22 IOWA AGRICULTURAL INDUSTRY FINANCE LOANS.

9 23 1. The department may award an Iowa agricultural industry  
9 24 finance loan to an Iowa agricultural industry finance  
9 25 corporation, if the department in its discretion determines  
9 26 that the corporation is qualified under this section.

9 27 2. The corporation must apply for an Iowa agricultural  
9 28 industry finance loan on forms and according to procedures  
9 29 required by the department.

9 30 3. The department may loan all or part of the amounts  
9 31 available to the department pursuant to this division to a  
9 32 qualified corporation with provisions and restrictions as  
9 33 determined by the department and contained in a loan agreement  
9 34 executed between the department and the qualified corporation.

9 35 a. The department may attach conditions to the granting of  
10 1 the loan as it deems desirable. The attorney general shall  
10 2 assist the department in drafting loan agreements and in  
10 3 collecting on the loan agreement.

10 4 b. The loan shall be repayable upon terms and conditions  
10 5 negotiated by the parties. However, the loan's repayment  
10 6 schedule shall not exceed twenty-five years from the date that  
10 7 the loan is issued.

10 8 4. In order to be eligible as a qualified Iowa  
10 9 agricultural industry finance corporation, all of the

10 10 following conditions must be satisfied:

10 11 a. The corporation must only provide financing to persons  
10 12 and ventures eligible under section 15E.210.

10 13 b. The corporation must demonstrate that it complies with  
10 14 guiding principles for the corporation as provided in section  
10 15 15E.207.

10 16 c. The corporation must adopt policies and procedures  
10 17 which maximize public oversight into the affairs of the  
10 18 corporation, by providing a forum for public comment, an  
10 19 opportunity for public review of the corporation's actions,  
10 20 and methods to ensure accountability for the expenditure of  
10 21 public moneys loaned to the corporation.

10 22 d. The corporation's articles of incorporation must comply  
10 23 with requirements established by the department relating to  
10 24 the capacity and integrity of the corporation to carry out the  
10 25 purposes of this division, including but not limited to all of  
10 26 the following:

10 27 (1) The capitalization of the corporation.

10 28 (2) The manner in which financing is provided by the  
10 29 corporation, including the manner in which an Iowa  
10 30 agricultural industry finance loan can be used by the  
10 31 corporation.

10 32 (3) The composition of the corporation's board of  
10 33 directors. The board must be composed of persons  
10 34 knowledgeable in Iowa agricultural industries including a  
10 35 representative number of individuals experienced and  
11 1 knowledgeable in financing new agricultural industries.

11 2 (4) The manner of oversight required by the department or  
11 3 the auditor of state. The articles must provide that the  
11 4 corporation shall submit a report to the governor, the general  
11 5 assembly, and the department. The report shall provide a  
11 6 description of the corporation's activities and a summary of  
11 7 its finances, including financial awards. The report shall be  
11 8 submitted not later than January 10 of each year. The  
11 9 articles shall provide for an annual audit by the auditor of  
11 10 state or a certified public accountant licensed pursuant to  
11 11 chapter 542C. A summary of the audit shall be included in the  
11 12 report.

11 13 (5) The execution of an agreement between the corporation  
11 14 and an eligible recipient as required by the department as a  
11 15 condition of providing financing, in which the eligible  
11 16 recipient agrees to become a shareholder in the corporation.  
11 17 An agreement shall at least provide all of the following:

11 18 (a) The establishment of a common stock pricing system.  
11 19 The stock shall be frozen against price appreciation for the  
11 20 first five years of the life of the corporation. The articles  
11 21 shall contain waivers for death and disability.

11 22 (b) The maintenance of stock ownership by an eligible  
11 23 recipient until a financial assistance obligation due the  
11 24 corporation is satisfied.

11 25 (c) A requirement that the par value of participating  
11 26 common stock be established prior to providing financial  
11 27 assistance to an eligible recipient.

11 28 e. A portfolio which is diversified among all types of  
11 29 agricultural commodities must be maintained.

11 30 f. The corporation may only be terminated by the following  
11 31 methods, unless approved by the department:

11 32 (1) Merger or share exchange under chapter 490, division  
11 33 XI.

11 34 (2) Dissolution as provided in chapter 490, division XIV,  
11 35 part A.

12 1 (3) A sale, lease, exchange, mortgage, pledge, transfer,  
12 2 or other disposition, in one or more transactions of assets of  
12 3 the corporation which has an aggregate market value equal to  
12 4 fifty percent or more of either the aggregate market value of  
12 5 all of the assets of the corporation determined on a  
12 6 consolidated basis, or the aggregate market value of all the

12 7 outstanding stock of the corporation.

12 8 The corporation may deviate from a requirement in this  
12 9 subsection, upon approval by the department for good cause and  
12 10 upon the affirmative vote of a majority of the corporation's  
12 11 board of directors.

12 12 5. The department shall provide for the default of the  
12 13 loan if the qualified corporation does any of the following:

12 14 a. Violates a provision of the articles of incorporation  
12 15 or an amendment to the articles of incorporation that is  
12 16 required by this division which violation is not approved by  
12 17 the department.

12 18 b. Violates the terms of the loan agreement executed  
12 19 between the department and the corporation, which violation is  
12 20 not approved by the department.

12 21 c. Fails to comply with the requirements of section  
12 22 15E.205.

12 23 d. Completes a transaction, if all of the following apply:

12 24 (1) The transaction involves any of the following:

12 25 (a) A merger or share exchange under chapter 490, division  
12 26 XI.

12 27 (b) The sale, lease, exchange, mortgage, pledge, transfer,  
12 28 or other disposition, in one or more transactions of assets of  
12 29 the corporation which has an aggregate market value equal to  
12 30 fifty percent or more of either the aggregate market value of  
12 31 all of the assets of the corporation determined on a  
12 32 consolidated basis, or the aggregate market value of all the  
12 33 outstanding stock of the corporation.

12 34 (2) The surviving entity of a merger or share exchange, or  
12 35 the entity acquiring the assets of the corporation fails to  
13 1 meet the requirements of section 15E.205.

13 2 6. Moneys repaid or collected by the department under this  
13 3 section shall be deposited into the general fund of the state.

13 4 Sec. 10. NEW SECTION. 15E.209 TAXATION EXEMPTION.

13 5 Dividends received by the shareholders of a qualified Iowa  
13 6 agricultural industry finance corporation shall be exempt from  
13 7 Iowa income tax under chapter 422, if more than fifty percent  
13 8 of the equity of the corporation is attributable to an Iowa  
13 9 agricultural industry finance loan as provided in section  
13 10 15E.208.

13 11 Sec. 11. NEW SECTION. 15E.210 FINANCING PROVIDED BY AN  
13 12 IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATION.

13 13 1. An Iowa agricultural industry finance corporation may  
13 14 only provide financing to a person determined eligible by the  
13 15 corporation according to requirements of the corporation and  
13 16 this section. At a minimum, an eligible person must be one of  
13 17 the following:

13 18 a. An agricultural producer under all of the following  
13 19 conditions:

13 20 (1) The agricultural producer must be a resident of this  
13 21 state at the time the financing is provided. If the person is  
13 22 not an individual, then a partner of the general partnership,  
13 23 shareholder of the family farm corporation, or member of the  
13 24 family farm limited liability company must reside in this  
13 25 state at the time the financial assistance is awarded.

13 26 (2) The agricultural producer must participate in an Iowa  
13 27 agricultural industry venture as provided according to the  
13 28 terms of an agreement executed by the agricultural producer  
13 29 and the corporation. The agreement may require that the  
13 30 agricultural producer acquire an interest in an agricultural  
13 31 products processor certified by the corporation, or enter into  
13 32 a marketing agreement under which the agricultural producer  
13 33 agrees to market an amount of the agricultural producer's  
13 34 agricultural commodities to the agricultural products  
13 35 processor.

14 1 b. The corporation may provide financing to an  
14 2 agricultural products processor as part of an Iowa  
14 3 agricultural industry venture as provided according to the

14 4 terms of an agreement executed by the agricultural products  
14 5 processor and the corporation. The corporation shall only  
14 6 provide financing if the venture involves the construction or  
14 7 acquisition of an agricultural products processing facility as  
14 8 certified by the corporation and if all of the following  
14 9 apply:

14 10 (1) The certified facility must be located in this state.

14 11 (2) Either of the following apply:

14 12 (a) More than fifty percent of the ownership interest in  
14 13 the certified facility must be held by qualified investors.  
14 14 If the certified facility is owned by an entity rather than by  
14 15 individuals, more than fifty percent of the interest in the  
14 16 entity and more than fifty percent of the voting interest in  
14 17 the entity must be held by qualified investors.

14 18 (b) More than fifty percent of the commodities processed  
14 19 by the certified facility during any twelve-month period is  
14 20 purchased from agricultural producers who are residents of  
14 21 this state at the time that the financing is provided. If the  
14 22 agricultural producer is not an individual, then a partner of  
14 23 the general partnership, shareholder of the family farm  
14 24 corporation, or member of the family farm limited liability  
14 25 company must reside in this state at the time the financing is  
14 26 provided.

14 27 2. Financing may be in the form of a loan, loan guarantee,  
14 28 sale and purchase of mortgage instruments for eligible  
14 29 recipients, or other similar forms of financing. The  
14 30 financing shall be awarded pursuant to an agreement between  
14 31 the corporation and the eligible person.

14 32 3. A corporation shall not provide financing to support  
14 33 any of the following:

14 34 a. A person who is either of the following:

14 35 (1) An agricultural producer, if any of the following  
15 1 applies:

15 2 (a) The agricultural producer is a party to a pending  
15 3 action for a violation of chapter 455B concerning a  
15 4 confinement feeding operation in which the person has a  
15 5 controlling interest and the action is commenced in district  
15 6 court by the attorney general.

15 7 (b) The agricultural producer or a confinement feeding  
15 8 operation in which the agricultural producer holds a  
15 9 controlling interest is classified as a habitual violator  
15 10 under section 455B.191.

15 11 (2) An agricultural products processor, if the processor  
15 12 or a person owning a controlling interest in the processor has  
15 13 demonstrated, within the most recent consecutive three-year  
15 14 period prior to the application for financing, a continuous  
15 15 and flagrant disregard for the health and safety of its  
15 16 employees or the quality of the environment. Violations of  
15 17 environmental protection statutes, rules, or regulations shall  
15 18 be reported for the most recent five-year period prior to  
15 19 application. Evidence of such disregard shall include a  
15 20 history of serious or uncorrected violations of state or  
15 21 federal law protecting occupational health and safety or the  
15 22 environment, including but not limited to serious or  
15 23 uncorrected violations of occupational safety and health  
15 24 standards enforced by the division of labor services of the  
15 25 department of employment services pursuant to chapter 84A, or  
15 26 rules enforced by the environmental protection division of the  
15 27 department of natural resources pursuant to chapter 455B.

15 28 b. The refinancing of an outstanding debt or other  
15 29 obligation, regardless of whether the original financing was  
15 30 provided by a corporation.

15 31 Sec. 12. NEW SECTION. 15E.211 OBLIGATIONS.

15 32 The obligations of the corporation are not obligations of  
15 33 this state or any political subdivision of this state within  
15 34 the meaning of any constitutional or statutory debt  
15 35 limitations, but are obligations of the corporation payable

16 1 solely and only from the corporation's funds. The corporation  
16 2 shall not pledge the credit or taxing power of this state or  
16 3 any political subdivision of this state or make its debts  
16 4 payable out of any moneys except for those of the corporation.  
16 5 Sec. 13. ~~NEW SECTION.~~ 15E.212 RULES.  
16 6 The department may adopt rules pursuant to chapter 17A  
16 7 necessary to administer this division.  
16 8 Sec. 14. Section [423.24](#), subsection 1, paragraph a,  
16 9 subparagraph (2), Code Supplement 1997, is amended to read as  
16 10 follows:  
16 11 (2)

~~Beginning January 1, 1996, through December 31, 1997,~~

16 12

~~two million five hundred thousand dollars per quarter shall be~~

16 13

~~deposited into and credited to the Iowa comprehensive~~

16 14

~~petroleum underground storage tank marketability fund created~~

16 15

~~in section 455C.21.~~

~~Beginning January 1, 1998, through~~

16 16

~~December 31, 2002~~

~~June 30, 1999, four million two hundred~~

16 17 fifty thousand dollars per quarter shall be

~~deposited into and~~

16 18 credited to the

~~Iowa comprehensive petroleum underground~~

16 19

~~storage tank marketability fund created in section 455C.21~~

16 20 department of economic development. However, not more than a

16 21 total of twenty-five million dollars shall be credited to the

16 22 department. The moneys so

~~deposited~~

~~credited~~ are a continuing

16 23 appropriation to be expended

~~in accordance with section~~

16 24

~~455C.21~~

~~to carry out the provisions of section 15E.208, and~~

16 25 the moneys shall not be used for other purposes.

16 26 Sec. 15. 1995 Iowa Acts, chapter 215, section 29,

16 27 subsection 1, is amended to read as follows:

16 28 1. Section [423.24](#), subsection 1, paragraph "a",

16 29 subparagraph (2) is repealed on

~~January 1, 2003~~

- July 1, 1999.

16 30 Sec. 16. TRANSFER AND RETROACTIVITY. Moneys deposited in  
16 31 the Iowa comprehensive petroleum underground storage tank  
16 32 marketability fund created in section 455G.21 derived from the  
16 33 use tax as provided in section 423.24, Code Supplement 1997,  
16 34 from January 1, 1998, until July 1, 1998, shall be transferred  
16 35 to the department of economic development for use as provided  
17 1 in section 15E.208, as enacted in this Act. This section  
17 2 shall be retroactively applicable on and after January 1,  
17 3 1998.

17 4 Sec. 17. DIRECTIONS TO CODE EDITOR. Section 15E.202,  
17 5 subsection 13, paragraph "d", as enacted in this Act, is  
17 6 amended by striking the paragraph, and the Code editor is  
17 7 directed to eliminate the paragraph, if 1998 Iowa Acts, House  
17 8 File 2335, is not enacted by the Seventy-seventh General  
17 9 Assembly, 1998 Session.

17 10 Sec. 18. EFFECTIVE DATE. Section 16 of this Act, being  
17 11 deemed of immediate importance, takes effect upon enactment.

17 12 EXPLANATION

17 13 This bill relates to agricultural finance. Major sections  
17 14 of the bill provide for all of the following:

17 15 Code section 1 is not codified. It provides for  
17 16 legislative findings by the general assembly. The bill  
17 17 provides that the general assembly finds that the economic  
17 18 structure of agricultural production is undergoing a period of  
17 19 rapid transformation; there is an increasing world demand for  
17 20 high quality agricultural products; there is a need for  
17 21 additional sources of financing for local agricultural  
17 22 producer-led ventures to expand production, processing, and  
17 23 marketing of high value agricultural products; and it is  
17 24 necessary for the state to authorize the formation of private  
17 25 corporations in order to provide sources of investment capital  
17 26 to encourage agricultural producer-led ventures.

17 27 The bill establishes a new division within chapter 15E  
17 28 which authorizes the establishment of Iowa agricultural  
17 29 industry finance corporations.

17 30 Code section 15E.201 provides that the division shall be  
17 31 known and may be cited as the "Iowa Agricultural Industry  
17 32 Finance Act".

17 33 Code section 15E.202 provides definitions. Generally, the  
17 34 words and phrases used in the division have the same meaning  
17 35 as used in chapter 490, the "Iowa Business Corporation Act".  
18 1 The section also provides a number of additional definitions  
18 2 used in the division, including definitions for "actively  
18 3 engaged in agriculture", and "agricultural producer".

18 4 Code section 15E.203 provides for findings, intent, and  
18 5 purposes of the division. The section provides that it is the  
18 6 intent of the general assembly that this state capture the  
18 7 greatest benefit from opportunities created during the period  
18 8 of transition noted in the findings, by encouraging local  
18 9 agricultural producer-led ventures to expand production and  
18 10 processing of high value agricultural products. The section  
18 11 provides that it is the intention of the general assembly that  
18 12 the majority of the wealth created by Iowa agricultural  
18 13 productivity is retained in this state; that employment in the  
18 14 production, processing, and marketing of agricultural products  
18 15 is increased in this state; and that agricultural producers in  
18 16 this state be provided with an opportunity to acquire a  
18 17 majority ownership interest in agricultural production,  
18 18 processing, and marketing ventures.

18 19 Code section 15E.204 provides for the powers of Iowa  
18 20 agricultural industry finance corporations. The section  
18 21 provides that generally, these corporations have the same  
18 22 powers and privileges conferred by provisions of Code chapter  
18 23 490. The section provides that the division does not limit  
18 24 the number of Iowa agricultural industry finance corporations  
18 25 authorized to be established and that a corporation not be

18 26 restricted from holding financial or security instruments.  
18 27 The section also provides that an Iowa agricultural industry  
18 28 finance corporation is a private business corporation and not  
18 29 a public corporation or instrumentality of the state.  
18 30 Code section 15E.205 provides that an entity incorporated  
18 31 under Code chapter 490 is an Iowa agricultural industry  
18 32 finance corporation, if the corporation complies with certain  
18 33 requirements. The section provides that at least 51 percent  
18 34 of the corporation's common stock must be held by agricultural  
18 35 producers, and at least 51 percent of the corporation's voting  
19 1 stock must be held by agricultural producers. In addition,  
19 2 the purpose of the corporation must be limited to providing  
19 3 financing to eligible persons who are engaging in ventures in  
19 4 which agricultural producers produce agricultural commodities  
19 5 for processing and marketing as agricultural processed  
19 6 products.  
19 7 Code section 15E.206 provides for the formation of model  
19 8 Iowa agricultural industry finance corporations in order to  
19 9 perfect the manner in which such corporations are formed and  
19 10 operate. The section provides for incorporating the  
19 11 corporation and the election of an initial board of directors,  
19 12 with assistance from the department of economic development.  
19 13 Code section 15E.207 provides that in carrying out its  
19 14 duties and exercising its powers, an Iowa agricultural  
19 15 industry finance corporation must be guided by several  
19 16 principles. It must exercise diligence and care in the  
19 17 selection of persons and projects to receive financing, and  
19 18 with limited exceptions, it cannot hold an interest in real or  
19 19 depreciable property.  
19 20 Code section 15E.208 provides that the department of  
19 21 economic development may award an Iowa agricultural industry  
19 22 finance loan to an Iowa agricultural industry finance  
19 23 corporation, if the department in its discretion determines  
19 24 that the corporation is qualified. The department may attach  
19 25 conditions to the granting of the loan as it deems desirable.  
19 26 The loan is repayable upon terms and conditions negotiated by  
19 27 the parties. However, the loan's repayment schedule shall not  
19 28 exceed 25 years from the date that the loan is issued. The  
19 29 section places a number of restrictions upon corporations who  
19 30 are eligible for assistance. The corporation must provide for  
19 31 public oversight and its articles of incorporation must comply  
19 32 with requirements established by the department relating to  
19 33 the capacity and integrity of the corporation to carry out the  
19 34 purposes of this division of Code chapter 15E. The section  
19 35 also requires a default of a loan if a corporation fails to  
20 1 comply with requirements contained in the division or by the  
20 2 department, or is involved in winding up its affairs pursuant  
20 3 to merger or sale.  
20 4 Code section 15E.209 provides that dividends received by  
20 5 the shareholders of a qualified Iowa agricultural industry  
20 6 finance corporation are exempt from Iowa income tax under Code  
20 7 chapter 422, if more than 50 percent of the equity of the  
20 8 corporation is attributable to an Iowa agricultural industry  
20 9 finance loan.  
20 10 Code section 15E.210 provides requirements for a  
20 11 corporation extending financing to agricultural producers.  
20 12 The agricultural producer must be a resident of this state at  
20 13 the time the financing is provided. The agricultural producer  
20 14 must participate in an Iowa agricultural industry venture as  
20 15 provided according to the terms of an agreement executed by  
20 16 the agricultural producer and the corporation. The  
20 17 corporation may also provide financing to an agricultural  
20 18 products processor as part of an Iowa agricultural industry  
20 19 venture. The corporation shall only provide financing if the  
20 20 venture involves the construction or acquisition of an  
20 21 agricultural products processing facility as certified by the  
20 22 corporation in which agricultural producers are involved. The

20 23 section provides that financing may be in the form of a loan,  
20 24 loan guarantee, sale and purchase of mortgage instruments for  
20 25 eligible recipients, or other similar forms of financing.  
20 26 Code section 15E.211 provides that the obligations of the  
20 27 corporation are not obligations of this state or any political  
20 28 subdivision of this state.  
20 29 Code section 15E.212 authorizes the department of economic  
20 30 development to adopt rules under chapter 17A necessary to  
20 31 administer the division.  
20 32 Code section 423.24 is amended. Code section 423.24  
20 33 allocates use tax moneys to the Iowa comprehensive petroleum  
20 34 underground storage tank marketability fund through December  
20 35 31, 2002. This section provides that \$4,250,000 per quarter  
21 1 from the use tax shall be credited to the department for  
21 2 purposes of supporting the bill to a maximum of \$25 million.  
21 3 Another section in the bill provides that moneys deposited in  
21 4 the Iowa comprehensive petroleum underground storage tank  
21 5 marketability fund from January 1, 1998, until the effective  
21 6 date of this bill must be transferred to the department. That  
21 7 section of the bill is made effective upon enactment.  
21 8 LSB 4402XC 77  
21 9 da/jl/8