

House File 2355 - Introduced

HOUSE FILE 2355

BY HORA

A BILL FOR

1 An Act allowing a corn producer to choose not to participate
2 in the promotional order otherwise requiring the first
3 purchaser to deduct a state assessment imposed on the
4 per bushel sales price that is forwarded to the Iowa corn
5 promotion board, and making penalties applicable.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 185C.1, Code 2024, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 3A. *“Certificate”* means a certificate of
4 nonparticipation as provided in section 185C.20A.

5 Sec. 2. NEW SECTION. 185C.20A **Certificate of**
6 **nonparticipation.**

7 1. When purchasing corn, a first purchaser presented with
8 a certificate of nonparticipation shall not deduct a state
9 assessment and shall not be liable for failing to forward the
10 state assessment to the board. A first purchaser who by error
11 deducts a state assessment in violation of this section is
12 not liable to repay the producer for any part of the deducted
13 amount.

14 2. The board shall publish all forms necessary for a
15 producer to apply for the issuance of one or more certificates,
16 or to amend an issued certificate. The board shall approve
17 an application if it contains all accurate information
18 required to issue a certificate. A certificate must at least
19 state identifying information regarding the producer and the
20 current marketing year for which the certificate applies. A
21 certificate may include a unique identification number assigned
22 by the board. The forms must allow a producer to apply for and
23 be issued a certificate electronically.

24 3. Upon consent of the producer, the board may present
25 the issued certificate to one or more first purchasers listed
26 in the approved application. The board shall present the
27 certificate to a first purchaser in any manner agreed to by
28 the board and first purchaser. Upon notice provided to the
29 producer by the board, the board and first purchaser may change
30 the presentation procedure at any time.

31 4. The board shall issue a certificate or present the
32 first purchaser with the certificate within thirty days after
33 receiving an approved application.

34 5. The board shall reissue the certificates to the producer
35 or present the certificates to first purchasers for each

1 subsequent marketing year, except if any of the following
2 apply:

3 *a.* Information in the producer's application is no longer
4 accurate. A producer may submit an amended application to the
5 board within thirty days before the anniversary date that the
6 certificate was last issued.

7 *b.* The board revises its application form or certificate.

8 6. A first purchaser who is presented with a certificate
9 shall maintain, as part of its business records, the
10 certificate together with information regarding the purchase
11 and the state assessment not deducted.

12 7. The board shall adopt rules pursuant to chapter 17A as
13 necessary to administer this section.

14 Sec. 3. Section 185C.22, Code 2024, is amended to read as
15 follows:

16 **185C.22 State assessment on purchase invoice.**

17 After a promotional order has been issued, the first
18 purchaser at the time of payment for corn shall show on
19 the purchase invoice delivered to the producer all of the
20 following:

21 1. The total amount of the state assessment deducted from
22 the sale on the purchase invoice.

23 2. The total amount of the state assessment not deducted
24 from the sale due to the presentation of a certificate.

25 Sec. 4. Section 185C.23, Code 2024, is amended to read as
26 follows:

27 **185C.23 Deduction of state assessment.**

28 1. The first purchaser shall do either of the following:

29 *a.* Deduct the state assessment ~~shall be deducted~~ from the
30 purchase price of corn at the time of sale, and ~~forwarded~~
31 forward the amount collected in state assessments to the board
32 by the first purchaser.

33 *b.* Based on the presentation of a certificate, not deduct
34 the state assessment from the purchase price of corn at
35 the time of sale, and forward a statement of the amount not

1 collected to the board.

2 2. The first purchaser shall forward to the board the
3 amounts collected and not collected in the manner and at
4 intervals determined by the board.

5 Sec. 5. Section 185C.27, Code 2024, is amended to read as
6 follows:

7 **185C.27 Refund of assessment.**

8 A producer who has sold corn and had a state assessment
9 deducted from the sale price, by application in writing to the
10 board, may secure a refund in the amount deducted. The refund
11 shall be payable only when the application ~~shall have been~~
12 is made to the board within sixty days after the deduction.
13 Application forms shall be given by the board to each first
14 purchaser when requested and the first purchaser shall make
15 the applications available to any producer upon request.
16 Each application for a refund submitted to the board by a
17 producer shall have attached to the application proof of the
18 state assessment deducted. The proof of the state assessment
19 deducted may be in the form of a duplicate or certified copy
20 of the purchase invoice delivered to the producer by the first
21 purchaser pursuant to section 185C.22. The board shall have
22 thirty days from the date the application for a refund is
23 received to remit the refund to the producer. The board may
24 provide for refunds of a federal assessment as provided by
25 federal law. Unless inconsistent with federal law, refunds
26 shall be made under **section 185C.26.**

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 BACKGROUND. An excise tax or assessment is imposed on the
31 first purchaser of a number of different types of commodities
32 as a pass-through (commonly referred to as a "checkoff"), which
33 may be administered under federal or state law or both. In the
34 case of corn, the assessment is implemented and administered
35 under state law (Code chapter 185C). The purpose of the

1 state assessment for corn is similar to assessments for other
2 commodities: to fund activities which involve improving
3 market development, which includes aspects related to the
4 commodity's production and market share, such as research and
5 education (Code section 185C.1). The state assessment on corn
6 takes effect, is continued, or is terminated on the basis
7 of a majority vote of corn producers (producers) voting in
8 a referendum conducted by the department of agriculture and
9 land stewardship (DALS) (Code section 185C.25). The checkoff
10 moneys imposed due to the state assessment are collected and
11 expended pursuant to a promotional order under the direction
12 of an Iowa corn promotion board (board), a governing body of
13 elected producers (Code sections 185C.8, 185C.11, and 185C.13).
14 The rate of the state assessment is imposed per marketing year,
15 beginning September 1 and ending August 31. The current rate
16 of the state assessment is 1 cent per bushel with a maximum
17 rate of 3 cents per bushel (Code section 185C.21) subject to
18 a producer's right of refund (Code section 185C.27). The
19 collected checkoff moneys are deposited into a separate
20 state-controlled fund established in the state treasury (state
21 fund) and transferred by the department of administrative
22 services to the corn promotion fund, an account in a qualified
23 financial institution eligible to hold public funds (Code
24 chapter 12C), and established by the board (Code section
25 185C.26).

26 BILL'S PROVISIONS. This bill allows a producer to apply
27 to the board to be issued a certificate of nonparticipation
28 (certificate). When presented with a certificate, the first
29 purchaser will not deduct the state assessment and will not be
30 liable for failing to forward the state assessment to the board
31 (new Code section 185C.20A). Alternatively, upon consent of
32 the producer, the board may directly present the certificate
33 to a first purchaser listed in the producer's application. A
34 certificate is valid only for the current marketing year as
35 stated on the certificate. However, the board must reissue a

1 certificate each subsequent marketing year, unless information
2 in the application is no longer valid or the board revises its
3 application. The first purchaser must remit an invoice to the
4 producer showing that the state assessment was not deducted.
5 If the state assessment was improperly deducted, a producer may
6 apply to the board for a refund by forwarding a copy of the
7 certificate and invoice.

8 APPLICABLE PENALTY. A person who willfully violates
9 a provision of the bill is guilty of a simple misdemeanor
10 (Code section 185.31). A simple misdemeanor is punishable by
11 confinement for no more than 30 days and a fine of at least \$105
12 but not more than \$855.