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Agriculture

HOUSE FILE 2579  
BY RAYHONS and DOLECHECK

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

**A BILL FOR**

1 An Act establishing the assessment of fees and the creation of a  
2 fund to support producers of corn and soybeans suffering  
3 losses due to contamination of their crops.

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

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HF 2579

## 1 SUBCHAPTER 1

## 2 DEFINITIONS

3 Section 1. NEW SECTION. 175B.101 DEFINITIONS.4 As used in this chapter, unless the context otherwise  
5 requires:6 1. "Commodity organization" means the Iowa soybean  
7 promotion board established pursuant to section 185.3 or the  
8 Iowa corn promotion board created in section 185C.3.9 2. "Contamination" means the presence of a plant or plant  
10 part that causes a registered producer a loss as provided in  
11 section 175B.403.

12 3. "Corn" means the same as defined in section 185C.1.

13 4. "Department" means the department of agriculture and  
14 land stewardship.15 5. "Excise tax" means the assessment of an excise tax  
16 imposed on a producer and collected for the benefit of a  
17 commodity organization as provided in section 185.21 or  
18 185C.21.

19 6. "First purchaser" means any of the following:

20 a. A first purchaser as defined in section 185.1 who  
21 purchases soybeans from a registered producer for the first  
22 time in the same manner as provided in chapter 185.23 b. A first purchaser as defined in section 185C.1 who  
24 purchases corn from a registered producer for the first time  
25 in the same manner as provided in section 185C.1.

26 7. "Grain" means corn or soybeans.

27 8. "Grain integrity indemnity fund" or "indemnity fund"  
28 means the grain integrity indemnity fund established in  
29 section 175B.402.30 9. "Grain integrity indemnity fund board" or "indemnity  
31 board" means the grain integrity indemnity fund board created  
32 pursuant to section 175B.201.

33 10. "Producer" means any of the following:

34 a. A producer as defined in section 185.1.

35 b. A producer as defined in section 185C.1.

1 11. "Record" means the same as defined in section 516E.1.

2 12. "Registered producer" means a producer who is  
3 registered with the indemnity board as provided in section  
4 175B.206.

5 13. "Soybeans" means the same as defined in section 185.1.

6 SUBCHAPTER 2

7 ADMINISTRATION

8 Sec. 2. NEW SECTION. 175B.201 GRAIN INTEGRITY INDEMNITY  
9 BOARD -- ESTABLISHED; COMPOSITION.

10 The grain integrity indemnity board is established in the  
11 department. The indemnity board is composed of all of the  
12 following members:

13 1. The secretary of agriculture or a designee who shall  
14 serve as chairperson.

15 2. The commissioner of insurance or a designee.

16 3. The state treasurer or a designee.

17 4. Six representatives of the grain industry appointed by  
18 the governor, subject to confirmation by the senate pursuant  
19 to section 2.32. Appointments of members are subject to the  
20 requirements of sections 69.16 and 69.16A. In addition, the  
21 appointments shall be geographically balanced. The appointed  
22 members shall serve three-year terms beginning and ending as  
23 provided in section 69.19. However, the governor shall  
24 appoint initial members to serve for less than three years to  
25 ensure members serve staggered terms. A member is eligible  
26 for reappointment. A vacancy on the indemnity board shall be  
27 filled for the unexpired portion of the regular term in the  
28 same manner as regular appointments are made. Of the six  
29 members, four shall represent registered producers and two  
30 shall represent first purchasers.

31 a. Of the four members representing registered producers,  
32 two shall represent corn producers and two shall represent  
33 soybean producers. In order to qualify for appointment, a  
34 registered producer must have derived a substantial portion of  
35 the person's income, wages, or salary from selling grain on a

1 premium basis due to intrinsic characteristics of the use of  
2 organic production methods or systems. At least one  
3 registered producer shall be a member of the organic standards  
4 board created pursuant to section 190C.2.

5 b. Of the two members representing first purchasers, one  
6 shall represent first purchasers of corn and one shall  
7 represent first purchasers of soybeans. Both members shall be  
8 licensed as grain dealers under section 203.3 and warehouse  
9 operators as provided in section 203C.6. In order to qualify  
10 for appointment, a first purchaser must have experience in  
11 purchasing grain on a premium basis due to its intrinsic  
12 characteristics or the use of organic production methods or  
13 systems, and storing such grain.

14 Sec. 3. NEW SECTION. 175B.202 GRAIN INTEGRITY INDEMNITY  
15 BOARD -- TERMS, PROCEDURE, AND COMPENSATION.

16 1. The indemnity board shall meet on a regular basis and  
17 at the call of the chairperson or upon the written request to  
18 the chairperson of three or more members.

19 2. Appointed members are entitled to receive compensation  
20 or reimbursement of expenses from the department as otherwise  
21 provided in section 7E.6.

22 3. Five voting members constitute a quorum and the  
23 affirmative vote of a majority of the voting members present  
24 is necessary for any substantive action to be taken by the  
25 commission. The majority shall not include any member who has  
26 a conflict of interest and a statement by a member that the  
27 member has a conflict of interest is conclusive for this  
28 purpose. A vacancy in the membership does not impair the  
29 duties of the indemnity board.

30 Sec. 4. NEW SECTION. 175B.203 GRAIN INTEGRITY INDEMNITY  
31 BOARD -- POWERS AND DUTIES.

32 1. The grain integrity indemnity board, in consultation  
33 with the department, shall administer the provisions of this  
34 chapter. The indemnity board shall do all of the following:

35 a. Provide for its organization and procedures, including

1 but not limited to procedures for determining claims as  
2 provided in section 175B.404.

3 b. Establish and adjust the indemnity assessment and its  
4 rate as provided in section 175B.302.

5 c. Provide for the administration of the grain integrity  
6 indemnity fund as provided in subchapter 4, including but not  
7 limited to the payment of claims from the indemnity fund and  
8 the payment of administrative costs from the indemnity fund.

9 2. The indemnity board shall approve rules adopted by the  
10 department as provided in chapter 175B.204 necessary to carry  
11 out its duties under this chapter.

12 Sec. 5. NEW SECTION. 175B.204 DEPARTMENT -- POWERS AND  
13 DUTIES.

14 1. The department shall perform the administrative  
15 functions necessary for the operation of the indemnity board  
16 and the management of the grain integrity indemnity fund as  
17 provided in section 175B.302. The department shall act in a  
18 manner necessary to minimize the risk of loss to the indemnity  
19 fund while protecting interests of depositors and sellers of  
20 grain.

21 2. Administrative costs approved by the indemnity board  
22 shall be paid from the grain integrity indemnity fund. Prior  
23 to July 1, the department shall determine the balance of  
24 moneys available to administer this chapter for the next  
25 fiscal year by calculating the ending balance of the indemnity  
26 fund on June 30, and report the amount to the indemnity board  
27 together with its estimate of the amount required by the  
28 department to administer this chapter. Not more than three  
29 percent of the ending balance of the indemnity fund as of June  
30 shall be used to pay for administrative costs of the  
31 department for the fiscal year beginning on the following July  
32 1 and ending on June 30.

33 3. The department, upon approval by the indemnity board,  
34 shall adopt all rules necessary for the administration of this  
35 chapter.



1 being collected pursuant to a referendum or whether the excise  
2 tax has been suspended pursuant to a federal Act.

3 b. Notwithstanding procedures used for the collection of  
4 excise taxes for the sale of grain to consumers or first  
5 purchasers in other states, as provided in chapters 185 and  
6 185C, the indemnity board may exempt these transactions, or  
7 provide for other collection procedures including but not  
8 limited to requiring payment directly by the registered  
9 producer or executing agreements with first purchasers from  
10 outside this state for the payment of the indemnity  
11 assessment.

12 c. An indemnity assessment shall not be imposed upon grain  
13 that is produced outside this state.

14 Sec. 9. NEW SECTION. 175B.302 GRAIN INDEMNITY ASSESSMENT  
15 -- RATES.

16 1. The grain indemnity assessment shall be assessed as  
17 follows:

18 a. For soybeans that are subject to an excise tax levied  
19 on registered producers and collected by first purchasers, as  
20 provided in chapter 185, the indemnity assessment shall be  
21 collected by the first purchasers at a rate of not more than  
22 one-quarter of one percent of the net market price of the  
23 soybeans marketed in this state and sold to a first purchaser,  
24 in the same manner as provided in section 185.21.

25 b. For corn that is subject to an excise tax levied on  
26 registered producers and collected by first purchasers, as  
27 provided in chapter 185C, the indemnity assessment shall be  
28 collected by the first purchasers at a rate of not more than  
29 one-quarter of one cent per bushel upon corn marketed in this  
30 state and sold to a first purchaser, in the same manner as  
31 provided in section 185C.21.

32 2. An indemnity assessment is not refundable.

33 3. The indemnity board shall review annually the debits of  
34 and credits to the indemnity fund and shall make any  
35 adjustments in the rates of the indemnity assessment that are

1 necessary to maintain the indemnity fund within the limits  
2 established under this section. Not later than the first day  
3 of May of each year, the indemnity board shall determine the  
4 proposed rate of the indemnity assessment based on the  
5 expected volume of grain on which the indemnity assessment is  
6 to be collected. The rates for the indemnity assessment shall  
7 be established and adjusted by rule adopted by the department  
8 that shall be effective on July 1 of each year. The rates  
9 shall expire on the following June 30. Notwithstanding  
10 section 17A.5, a rule adopted under this section to establish  
11 rates for the indemnity assessment or increase the rates shall  
12 not be effective immediately upon filing and shall not be made  
13 retroactively applicable.

14 4. The indemnity board may charge interest on any amount  
15 of an indemnity assessment that is delinquent. The rate of  
16 interest shall not be more than the current rate published in  
17 the Iowa administrative bulletin by the department of revenue  
18 and finance pursuant to section 421.7. The interest amount  
19 shall be computed from the date the indemnity assessment is  
20 delinquent, unless the department designates a later date.  
21 The interest amount shall accrue for each month in which there  
22 is delinquency calculated as provided in section 421.7, and  
23 counting each fraction of a month as an entire month. The  
24 interest amount due shall become a part of the amount of the  
25 indemnity assessment due.

26 5. The amount of an indemnity assessment, including any  
27 delinquency penalty, shall constitute a debt due the state and  
28 become the basis of a judgment against the first purchaser in  
29 arrears.

30 Sec. 10. NEW SECTION. 175B.303 GRAIN INDEMNITY  
31 ASSESSMENT -- SUSPENSION.

32 If, at the end of any three-month period, the assets of the  
33 grain integrity indemnity fund exceeds twenty-five million  
34 dollars, less any unencumbered balances or pending or  
35 unsettled claims, the indemnity board shall suspend the

1 indemnity assessment. The indemnity assessment shall not be  
2 due or owing during the period of the suspension. The  
3 indemnity board shall reinstate the indemnity assessment if  
4 the assets of the indemnity fund, less any unencumbered  
5 balances or pending or unsettled claims, are fifteen million  
6 dollars or less.

7 Sec. 11. NEW SECTION. 175B.304 RECORDS.

8 1. A first purchaser shall provide records as required by  
9 the indemnity board in order to notify registered producers of  
10 the grain integrity indemnity assessment and account for  
11 revenues from the indemnity assessment remitted to the  
12 treasurer of state pursuant to section 175B.401.

13 2. The records shall include all of the following:

14 a. A receipt returned to the registered producer that  
15 includes the rate for the indemnity assessment imposed and the  
16 total amount of the indemnity assessment.

17 b. An invoice which shall be delivered to the indemnity  
18 board within a period established by rules adopted by the  
19 indemnity board in order to audit the amount of the indemnity  
20 assessments owed, due, and collected. The invoice shall at  
21 least include all of the following:

22 (1) The name and address of the registered producer.  
23 (2) The name and address of the first purchaser.  
24 (3) The type of grain subject to the indemnity assessment.  
25 (4) The number of bushels of the grain purchased as  
26 required in order to calculate the amount collected from the  
27 indemnity assessment.

28 c. The date of the grain's delivery or purchase.

29 3. The first purchaser shall authenticate the invoice as  
30 required by the indemnity board. The department may require  
31 that the first purchaser submit a separate invoice for each  
32 purchase.

33 4. The department may provide for different forms of  
34 records based on the commodity purchased or may use joint  
35 records, including but not limited to invoices, for use by

1 commodity organizations and the department on single forms.  
2 5. A first purchaser shall provide the indemnity board  
3 with any information required by the indemnity board to carry  
4 out the provisions of this part. For the purpose of  
5 ascertaining the correctness of any information provided to  
6 the indemnity board, the board may examine the first  
7 purchaser's records.

8 SUBCHAPTER 4

9 GRAIN INTEGRITY INDEMNITY FUND -- INDEMNIFICATION

10 Sec. 12. NEW SECTION. 175B.401 GRAIN INTEGRITY INDEMNITY  
11 ASSESSMENTS -- DEPOSIT IN THE GRAIN INTEGRITY INDEMNITY FUND.

12 1. A first purchaser shall remit amounts collected from  
13 the grain integrity indemnity assessments to the treasurer of  
14 state as required by the treasurer of state for deposit in the  
15 grain integrity indemnity fund.

16 2. The treasurer of state may require that grain integrity  
17 indemnity assessments be remitted in the same manner, at the  
18 same time, and according to the same procedures as the excise  
19 taxes. However, the indemnity assessments shall not be  
20 commingled with any other moneys, including excise taxes.

21 Sec. 13. NEW SECTION. 175B.402 GRAIN INTEGRITY INDEMNITY  
22 FUND.

23 1. A grain integrity indemnity fund is created in the  
24 state treasury under the control of the indemnity board. The  
25 indemnity fund is separate from the general fund of the state.

26 2. The fiscal year of the indemnity fund begins July 1.  
27 The finances of the indemnity fund shall be calculated on an  
28 accrual basis in accordance with generally accepted accounting  
29 principles.

30 3. The indemnity fund is composed of moneys appropriated  
31 by the general assembly and moneys available to and obtained  
32 or accepted by the indemnity board or the department from the  
33 United States government or private sources for placement in  
34 the indemnity fund. The indemnity fund shall include moneys  
35 deposited into the fund from moneys collected by the

1 imposition of the grain integrity indemnity assessment.

2 4. The moneys deposited in the indemnity fund are  
3 appropriated to the indemnity board for the exclusive purpose  
4 of satisfying claims as provided in this subchapter and  
5 providing moneys for paying the department for costs related  
6 to administering the provisions of this chapter. Moneys in  
7 the indemnity fund shall not be subject to appropriation or  
8 expenditure for any other purpose than provided in this  
9 section.

10 5. The treasurer of state shall act as custodian of the  
11 indemnity fund and disburse amounts contained in the indemnity  
12 fund as directed by the indemnity board. The treasurer of  
13 state is authorized to invest the moneys deposited in the  
14 indemnity fund. Notwithstanding section 8.33, any unexpended  
15 balance in the indemnity fund at the end of the fiscal year  
16 shall be retained in the fund. Notwithstanding section 12C.7,  
17 subsection 2, interest, earnings on investments, or time  
18 deposits of the moneys in the indemnity fund shall be credited  
19 to the fund.

20 Sec. 14. NEW SECTION. 175B.403 CLAIMS AGAINST FUND --  
21 CONTAMINATION.

22 A registered producer may file a claim with the indemnity  
23 board for a loss based on the diminution of value of the  
24 registered producer's grain due to contamination.  
25 Contamination occurs when there is a presence of a plant or  
26 plant part, including but not limited to a crop's seed, on  
27 property in which the registered producer holds a legal or  
28 equitable interest, if the plant or plant part was  
29 intentionally or unintentionally transferred from a location  
30 other than property in which the registered producer holds a  
31 legal or equitable interest, and its presence alters the  
32 genetic characteristics of a plant growing on the registered  
33 producer's property or is commingled with crops stored on the  
34 registered producer's property. Contamination includes but is  
35 not limited to the transfer of seeds or the pollination of

1 crops or other plants inhabiting the registered producer's  
2 property.

3 Sec. 15. NEW SECTION. 175B.404 PROCEDURE FOR FILING AND  
4 DETERMINATION OF CLAIMS.

5 1. A claim by a registered producer shall be filed in the  
6 manner prescribed by the indemnity board.

7 2. The indemnity board shall determine a claim to be  
8 eligible for payment from the indemnity fund if the board  
9 finds all of the following:

10 a. The claim was timely filed according to procedures  
11 required by the indemnity board. However, a claim shall not  
12 be timely filed if the claim is filed later than twelve months  
13 after a crop subject to the claim has been harvested.

14 b. The claimant qualifies as a producer who has registered  
15 pursuant to section 175B.206.

16 c. The claim derives from a loss due to contamination of  
17 the registered producer's grain.

18 d. The registered producer's loss was not due to the  
19 reckless disregard of sound management practices required to  
20 prevent contamination of the registered producer's crop.

21 e. There is adequate documentation to establish the  
22 existence of a claim and to determine the amount of the loss.  
23 The indemnity board may require that the registered producer  
24 provide invoices provided for the first purchaser.

25 3. The indemnity board shall determine the dollar value of  
26 a claim incurred by a registered producer eligible to file a  
27 claim under this section based on the registered producer's  
28 loss.

29 a. The value of the claim shall be the difference between  
30 the grain's fair market price as if the contamination had not  
31 occurred and the fair market price of the contaminated grain.

32 (1) The indemnity board shall determine the fair market  
33 value for the grain as if the contamination had not occurred  
34 based on the market price that grain of a similar type and  
35 condition, and with the same intrinsic characteristics

1 received by sellers on the date that the registered producer  
2 sold the grain to the first purchaser. However, if the  
3 registered producer executed a contract for the sale of the  
4 grain prior to the contamination, the board shall determine  
5 the fair market value for the grain as if the contamination  
6 had not occurred based on the contract price.

7 (2) The indemnity board shall presume that the fair market  
8 price for the contaminated grain is the same price accepted by  
9 the registered producer of the grain from the first purchaser  
10 who purchased the grain with knowledge of the contamination.

11 b. A registered producer filing claims under this section  
12 shall be bound by the value determined by the indemnity board.  
13 The value of the loss is the outstanding balance on the  
14 validated claim at the time of payment from the indemnity  
15 fund.

16 4. Upon a determination that a claim is eligible for  
17 payment, the indemnity board shall provide for payment of  
18 ninety percent of the loss, but not more than one hundred  
19 fifty thousand dollars per claimant.

20 5. The indemnity board shall provide for notice to a  
21 claimant of the board's determination of eligibility and value  
22 of the registered producer's loss. The notice shall be  
23 delivered by certified mail, return receipt requested. Within  
24 twenty days of the delivery of the notice, the registered  
25 producer may request a hearing for the review of either  
26 determination. The request shall be made in the manner  
27 provided by the indemnity board. The hearing and any further  
28 appeal shall be conducted as a contested case subject to  
29 chapter 17A. A registered producer whose claim has been  
30 refused by the indemnity board may appeal the refusal to  
31 either the district court of Polk county or the district court  
32 of the county in which the registered producer resides.

33 6. If at any time the indemnity board determines that  
34 there are insufficient moneys to make payment of all claims,  
35 the indemnity board may order that payment be deferred on

1 specified claims. The indemnity board shall hold those claims  
2 for payment until the indemnity board determines that the  
3 indemnity fund again contains sufficient assets.

4 Sec. 16. NEW SECTION. 175B.405 SUBROGATION.

5 In the event of payment of a loss under section 175B.404,  
6 the indemnity fund is subrogated to the extent of the amount  
7 of any payments to all rights, powers, privileges, and  
8 remedies of the registered producer against any person  
9 regarding the loss. The registered producer shall render all  
10 necessary assistance to aid the indemnity board in securing  
11 the rights granted in this section. No action or claim  
12 initiated by a registered producer and pending at the time of  
13 payment from the indemnity fund shall be compromised or  
14 settled without the consent of the indemnity board.

15 Sec. 17. NEW SECTION. 175B.406 NO OBLIGATION OF STATE.

16 This chapter does not imply any guarantee or obligation on  
17 the part of the state of Iowa, or any of its agencies,  
18 employees, or officials, either elective or appointive, in  
19 respect of any agreement or undertaking to which this chapter  
20 relates.

21 Sec. 18. NEW SECTION. 185.22A COOPERATION WITH THE GRAIN  
22 INTEGRITY INDEMNITY BOARD.

23 The council shall cooperate with the grain integrity  
24 indemnity board as created in section 175B.201. The grain  
25 integrity indemnity board in cooperation with the council may  
26 require the use of joint records, including but not limited to  
27 invoices as provided in sections 175B.304 and 185.22, on  
28 single forms.

29 Sec. 19. NEW SECTION. 185C.22A COOPERATION WITH THE  
30 GRAIN INTEGRITY INDEMNITY FUND BOARD.

31 The council shall cooperate with the grain integrity  
32 indemnity fund board as created in section 175B.201. The  
33 grain integrity indemnity board in cooperation with the  
34 council may require the use of joint records, including but  
35 not limited to invoices as provided in sections 175B.304 and

1 185C.22, on single forms.

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EXPLANATION

3 This bill provides for the indemnification of certain  
4 producers of corn and soybeans from an indemnity fund  
5 supported from moneys collected from assessments on the  
6 producers in the same manner as excise taxes are assessed  
7 against producers for the benefit of promotional activities by  
8 the Iowa soybean promotion board and the Iowa corn promotion  
9 board. The fund is managed by a grain integrity indemnity  
10 board created under the bill.

11 The bill provides an assessment for producers who must  
12 register with the board. A producer who is eligible to  
13 participate must be certified as an organic producer under  
14 Code chapter 190C or a party to a contract for the production  
15 or marketing of corn or soybeans based on intrinsic  
16 characteristics of the corn or soybeans or specialized  
17 production methods that provide a premium price for the  
18 delivery of such grain.

19 The bill establishes a grain integrity indemnity fund  
20 composed of moneys from the indemnity assessments. The moneys  
21 deposited in the indemnity fund are appropriated to the  
22 indemnity board for the exclusive purpose of satisfying claims  
23 by registered producers whose crops have been contaminated. A  
24 registered producer may file a claim with the indemnity board  
25 for a loss based on the diminution of value of the registered  
26 producer's corn or soybeans due to contamination.  
27 Contamination occurs when there is a presence of a plant or  
28 plant part, including but limited to a crop's seed, on  
29 property in which the registered producer holds a legal or  
30 equitable interest. The plant or plant part must have been  
31 transferred from a location other than property in which the  
32 registered producer holds a legal or equitable interest, and  
33 its presence must alter the genetic characteristics of a plant  
34 growing on the registered producer's property or is commingled  
35 with crops stored on the registered producer's property.

1 The indemnity board must make a determination of the  
2 registered producer's loss based on criteria established in  
3 the bill. Upon a determination that a claim is eligible for  
4 payment, the indemnity board must provide for payment of 90  
5 percent of the loss, but not more than \$150,000 per claimant.

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