

Adopted	Rejected
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COMMITTEE REPORT

YES:	14
NO:	0

MR. SPEAKER:

*Your Committee on Agriculture and Rural Development, to which was referred Senate Bill 369, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the amendment made on motion of Senator Jackman
- 2 adopted February 2, 1998.
- 3 Page 3, delete lines 25 through 41, begin a new paragraph and
- 4 insert:
- 5 "SECTION 5. IC 15-2.1-23-6.5 IS ADDED TO THE INDIANA
- 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 7 [EFFECTIVE JULY 1, 1998]: **Sec. 6.5. (a) The following definitions**
- 8 **apply throughout this section:**
- 9 (1) "DP" or "daily production" means the amount of milk,
- 10 measured by hundred weight, produced by the positive
- 11 producer in one (1) day, measured on the day in which the
- 12 drug residue violation occurred.
- 13 (2) "PR" or "producer reimbursement" means an amount
- 14 assessed against the positive producer to reimburse others
- 15 for milk contaminated by the positive producer's
- 16 contaminated milk, not including the value of the positive

1 producer's contaminated milk for which he or she was not
2 paid.

3 (3) "Revocation period" means the period after a Grade A
4 producer's permit is revoked under this section that the
5 producer may not apply for a Grade A permit.

6 (b) A penalty established under this section may not be more
7 severe than the penalty standard for drug residue violations
8 adopted by the National Conference on Interstate Milk Shipments
9 in its Pasteurized Milk Ordinance adopted in accordance with the
10 National Conference's Memorandum of Understanding with the
11 United States Department of Health and Human Services, Food
12 and Drug Administration. The penalty imposed may not exceed
13 one thousand dollars (\$1,000) for a first offense or two thousand
14 dollars (\$2,000) for a subsequent offense.

15 (c) The board may impose a civil penalty for violations of laws
16 that prohibit drug residues in milk and milk products as described
17 in this section.

18 (d) Milk shall be screened for drug residue violations as
19 follows:

20 (1) Except as provided in subdivision (2), milk shall be
21 screened for drug residues under Appendix N of the
22 Pasteurized Milk Ordinance (345 IAC 8-3-1).

23 (2) Milk from manufacturing grade dairy farms shall be
24 tested for drug residues under 345 IAC 8-2-3.

25 (3) All milk that tests positive for drug residues must be
26 disposed of in a manner that removes it from the human and
27 animal food chain or that acceptably reconditions the milk
28 under United States Health and Human Services - Food and
29 Drug Administration compliance policy guidelines. In all
30 cases of drug residue violations, a producer may not resume
31 shipping milk until a drug test conducted by a certified
32 laboratory shows the producer's milk is negative for drug
33 residues and the test results are reported to the office of the
34 state veterinarian.

35 (4) All positive drug residue test results must be called into
36 the office of the state veterinarian immediately, and a written
37 report of the test results must be faxed or delivered to the
38 office of the state veterinarian within twenty-four (24) hours

1 of the test. The producer whose milk tested positive must be
 2 notified of the positive drug residue test immediately. The
 3 company that conducted the test is responsible for the
 4 reporting requirements in this subdivision.

5 (5) A producer whose milk tests positive for drug residues
 6 shall pay a civil penalty and participate in drug residue
 7 education activities as follows:

8 (A) The following is imposed on a producer for the first
 9 positive test for drug residues within a twelve (12)
 10 month period:

11 (i) The positive producer must pay a civil penalty to
 12 the board equal to the result of the following
 13 equation:

14 (DP times two (2) days times three dollars (\$3))
 15 minus PR.

16 However, if the result is less than five dollars (\$5)
 17 then the civil penalty is five dollars (\$5).

18 (ii) The positive producer must, in conjunction with
 19 the producer's veterinarian and an official of the
 20 board, complete the "Milk and Dairy Beef Residue
 21 Prevention Protocol" and provide proof of
 22 completion to the board of animal health - office of
 23 the state veterinarian within thirty (30) days of the
 24 drug residue violation. Failure to complete the
 25 Protocol and submit proof of completion within
 26 thirty (30) days will result in action to suspend the
 27 producer's permit.

28 (B) The following is imposed for a second positive test
 29 for drug residues within a twelve (12) month period:

30 (i) The positive producer must pay a civil penalty to
 31 the board equal to the result of the following
 32 equation:

33 DP times four (4) days times three dollars (\$3).
 34 However, if the result is less than five dollars (\$5)
 35 then the civil penalty is five dollars (\$5).

36 (ii) The positive producer must, in conjunction with
 37 the producer's veterinarian and an official of the
 38 board, complete the "Milk and Dairy Beef Residue

- 1 **Prevention Protocol" and provide proof of**
2 **completion to the board of animal health - office of**
3 **the state veterinarian within thirty (30) days of the**
4 **drug residue violation. Failure to complete the**
5 **Protocol and provide proof of completion will result**
6 **in action to suspend the producer's permit.**
- 7 **(iii) The producer must attend a producer**
8 **education program or meeting designated by the**
9 **state veterinarian. The producer is responsible for**
10 **paying registration and material fees and other**
11 **costs associated with attending the education**
12 **program or meeting. The producer must provide**
13 **proof of attendance to the state veterinarian within**
14 **ten (10) days of completion of the program or**
15 **meeting.**
- 16 **(C) The third positive test result for drug residues**
17 **within a twelve (12) month period shall result in the**
18 **following:**
- 19 **(i) The board revoking a producer's Grade A**
20 **permit if the producer has a permit.**
- 21 **(ii) The sanctions for a second offense set forth in**
22 **clause (B) are imposed.**
- 23 **(iii) The producer must submit to the state**
24 **veterinarian a set of written procedures that the**
25 **producer will follow to prevent future drug residue**
26 **violations. The procedures must be submitted with**
27 **the proof of completion required in clause (B) and**
28 **must be specific, practical, and reasonably likely to**
29 **lessen the possibility of a drug residue violation**
30 **when followed by the producer.**
- 31 **(iv) After a producer's Grade A permit is revoked**
32 **for a third offense violation under this statute, the**
33 **producer may not receive a new Grade A permit**
34 **for a revocation period of thirty (30) days from the**
35 **date of the revocation. After the revocation period,**
36 **the state veterinarian must issue a conditional**
37 **Grade A permit to a producer that has applied for**
38 **a permit if the producer has met all of the**

1 requirements of this section at the time of
 2 application and the producer meets all other
 3 requirements of the board for obtaining a Grade A
 4 permit. The permit must be issued on the condition
 5 that all of the requirements of this section must be
 6 completed within the time set forth in this section.
 7 A permit issued under this item automatically
 8 becomes unconditional after the producer fully
 9 complies with all of the provisions of this section.

10 (D) For each drug residue violation in a twelve (12)
 11 month period in excess of three (3) the producer is
 12 subject to the penalties for a third offense in clause (C)
 13 are imposed, but for Grade A producers the revocation
 14 period will begin on the date the producer's permit is
 15 revoked and run for a period equal to two (2) times the
 16 length of the revocation period imposed after the
 17 producer's last drug residue violation.

18 (e) The state veterinarian may, by special permit, allow a
 19 producer that objects to the imposition of a civil penalty to dump
 20 two (2) days of milk production on a first offense and four (4) days
 21 of milk production on the second or third offense instead of paying
 22 a civil penalty if payment of a civil penalty would impose undue
 23 hardship on a producer. The state veterinarian may set the
 24 conditions under which the milk is to be dumped and may require
 25 documentation from the producer showing the circumstances
 26 under which the milk was dumped.

27 (f) Civil penalties collected under this section shall be
 28 deposited in the dairy drug residue abatement fund established
 29 under section 17 of this chapter."

30 Page 4, after line 15, begin a new paragraph and insert:

31 "SECTION 7. IC 26-3-7-2, AS AMENDED BY P.L.125-1997,
 32 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 1998]: Sec. 2. The following definitions apply throughout this
 34 chapter:

35 (1) "Agency" refers to the Indiana grain buyers and warehouse
 36 licensing agency established under section 1 of this chapter.

37 (2) "Anniversary date" means the date that is ninety (90)
 38 calendar days after the fiscal year end of a business licensed

- 1 under this chapter.
- 2 (3) "Bin" means a bin, tank, interstice, or other container in a
3 warehouse in which bulk grain may be stored.
- 4 (4) "Buyer-warehouse" means a person that operates both as a
5 warehouse licensed under this chapter and as a grain buyer.
- 6 (5) "Claimant" means a person that is unable to secure
7 satisfaction of the financial obligations due from a licensee
8 under this chapter for grain that has been delivered to the
9 licensee for sale or for storage under a bailment.
- 10 (6) "Deferred pricing" means a purchase by a buyer in which title
11 to the grain passes to the buyer and the price to be paid to the
12 seller is not determined:
- 13 (A) at the time the grain is received by the buyer; or
14 (B) within ten (10) days of receipt.
- 15 (7) "Depositor" means any of the following:
- 16 (A) A person that delivers grain to a licensee under this
17 chapter for storage or sale.
- 18 (B) A person that:
- 19 (i) owns or is the legal holder of a ticket or receipt
20 issued by a licensee for grain received by the licensee;
21 and
22 (ii) is the creditor of the issuing licensee for the value
23 of the grain received in return for the ticket or receipt.
- 24 (C) A licensee that stores grain that the licensee owns
25 solely, jointly, or in common with others in a warehouse
26 owned or controlled by the licensee or another licensee.
- 27 (8) "Designated representative" means the person or persons
28 designated by the director to act instead of the director in
29 assisting in the administration of this chapter.
- 30 (9) "Facility" means a location or one (1) of several locations in
31 Indiana that are operated as a warehouse or by a grain buyer.
- 32 (10) "Failure" means any of the following:
- 33 (A) The inability of a licensee to financially satisfy
34 claimants.
- 35 (B) Public declaration of a licensee's insolvency.
- 36 (C) Revocation or suspension of a licensee's license, if the
37 licensee has outstanding indebtedness owed to claimants.
- 38 (D) Nonpayment of a licensee's debts in the ordinary course

- 1 of business, if there is not a good faith dispute.
- 2 (E) Voluntary surrender of a licensee's license, if the
- 3 licensee has outstanding indebtedness to claimants.
- 4 (11) "Grain" means corn, wheat, oats, barley, rye, sorghum,
- 5 soybeans, oil seeds, **and other agricultural commodities as**
- 6 **approved by the agency and includes grain grown for seed**
- 7 **use, but does not including include** canning crops for
- 8 processing. **As used in this subdivision, "corn" includes corn**
- 9 **for all uses, including popcorn, but not including sweet corn**
- 10 **and flint corn.**
- 11 (12) "Grain assets" means any of the following:
- 12 (A) All grain owned or stored by a licensee, including grain
- 13 that:
- 14 (i) is in transit following shipment by a licensee; and
- 15 (ii) has not been paid for.
- 16 (B) All proceeds, due or to become due, from the sale of a
- 17 licensee's grain.
- 18 (C) Equity, less any secured financing directly associated
- 19 with the equity, in hedging or speculative margin accounts
- 20 of a licensee held by a commodity or security exchange, or
- 21 a dealer representing a commodity or security exchange,
- 22 and any money due the licensee from transactions on the
- 23 exchange, less any secured financing directly associated
- 24 with the money due the licensee from the transactions on
- 25 the exchange.
- 26 (D) Any other unencumbered funds, property, or equity in
- 27 funds or property, wherever located, that can be directly
- 28 traced to the sale of grain by a licensee. However, funds,
- 29 property, or equity in funds or property may not be
- 30 considered encumbered unless:
- 31 (i) the encumbrance results from valuable
- 32 consideration paid to the licensee in good faith by a
- 33 secured party; and
- 34 (ii) the encumbrance did not result from the licensee
- 35 posting the funds, property, or equity in funds or
- 36 property as additional collateral for an antecedent debt.
- 37 (E) Any other unencumbered funds, property, or equity in
- 38 assets of the licensee.

- 1 (13) "Grain bank grain" means grain owned by a depositor for
 2 use in the formulation of feed and stored by the warehouse to be
 3 returned to the depositor on demand.
- 4 (14) "Grain buyer" means a person who is engaged in the
 5 business of buying grain from producers. The term does not
 6 include a buyer of grain who:
- 7 (A) buys less than fifty thousand (50,000) bushels of grain
 8 annually; or
- 9 (B) buys grain for the sole purpose of feeding the person's
 10 own livestock or poultry, if:
- 11 (i) the person derives a major portion of the person's
 12 income from selling that livestock or poultry; and
- 13 (ii) the person does not offer storage, deferred pricing,
 14 delayed payment, or contracts or other instruments that
 15 are linked to the commodity futures or commodity
 16 options market.
- 17 (15) "Grain standards act" means the United States Grain
 18 Standards Act, approved August 11, 1916 (39 Stat. 482; 7 U.S.C.
 19 71-87 as amended).
- 20 (16) "License" means a license issued under this chapter.
- 21 (17) "Official grain standards of the United States" means the
 22 standards of quality or condition for grain, fixed and established
 23 by the secretary of agriculture under the grain standards act.
- 24 (18) "Person" means an individual, partnership, corporation,
 25 association, or other form of business enterprise.
- 26 (19) "Receipt" means a warehouse receipt issued by a warehouse
 27 licensed under this chapter.
- 28 (20) "Ticket" means a scale weight ticket, a load slip, or other
 29 evidence, other than a receipt, given to a depositor upon initial
 30 delivery of grain to a facility.
- 31 (21) "Warehouse act" means the United States Warehouse Act,
 32 approved August 11, 1916, (39 Stat. 486; 7 U.S.C. 241-273 as
 33 amended).
- 34 (22) "Warehouse" means a person that operates a facility or
 35 group of facilities in which grain is or may be stored for hire or
 36 which is used for grain bank storage and which is operated under
 37 one (1) ownership and run from a single office.
- 38 SECTION 8. IC 26-3-7-4, AS AMENDED BY P.L.125-1997,

1 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 1998]: Sec. 4. (a) A person may not operate a warehouse or
3 conduct business as a grain buyer or buyer-warehouse without first
4 having obtained the appropriate license from the agency, nor may a
5 person continue to operate a warehouse or conduct business as a grain
6 buyer or buyer-warehouse after the person's license has been revoked
7 or suspended, except as provided in section 18 of this chapter.

8 (b) All facilities in Indiana that an applicant for a license uses to
9 store or handle grain must qualify for a license and be licensed under
10 this chapter before the applicant may operate a warehouse or conduct
11 business as a grain buyer in Indiana. An applicant may not be licensed
12 unless all of the applicant's facilities qualify for a license under this
13 chapter. An applicant for a license must apply to the agency for a
14 license that covers all facilities operated by the applicant for the storage
15 or handling of grain in Indiana.

16 (c) If a licensee acquires an additional grain storage or handling
17 facility in Indiana, the licensee shall promptly submit to the agency an
18 amended application for licensure. A licensee shall promptly notify the
19 agency of a material change to the licensee's operations, such as
20 expansion of the amount of storage being used in the licensee's existing
21 facilities or change of ownership of a facility, and shall provide the
22 director with additional information the director may require. A
23 licensee shall obtain the approval of the director before making use of
24 increased storage or handling capacity.

25 (d) A licensee that acquires an additional grain storage or handling
26 facility that is required to be licensed shall not use the facility for the
27 storage or handling of grain until it qualifies for a license and is
28 licensed as provided in this chapter. If a licensed grain storage or
29 handling facility that a licensee operates in Indiana becomes ineligible
30 for a license at any time for any reason, it shall not be used for the
31 storage or handling of grain until the condition making it ineligible is
32 removed.

33 (e) A licensee shall maintain at least eighty percent (80%) of the
34 unpaid balance of grain payables in unencumbered assets represented
35 by the aggregate of the following:

- 36 (1) Company owned grain.
37 (2) Cash on hand.
38 (3) Cash held on account in federally or state licensed financial

- 1 institutions or lending institutions of the Federal Farm Credit
 2 Administration.
- 3 (4) Investments held in time accounts with federally or state
 4 licensed financial institutions.
- 5 (5) Direct obligations of the United States government.
- 6 (6) Balances in grain margin accounts determined by marking to
 7 market.
- 8 (7) Balances due or to become due to the licensee on deferred
 9 pricing contracts.
- 10 (8) Marketable securities, including mutual funds.
- 11 (9) Irrevocable letters of credit that are:
- 12 (A) in favor of the agency;
- 13 (B) acceptable to the agency; and
- 14 (C) in addition to any letter of credit deposited with the
 15 director to satisfy the bonding requirement of this chapter.
- 16 (10) Deferred pricing contract service charges due or to become
 17 due to the licensee.
- 18 (11) Other evidence of proceeds from or of grain that is
 19 acceptable to the agency.
- 20 (12) Other assets approved by the director.
- 21 (f) A licensee must have the minimum **positive** net worth specified
 22 in section 16 of this chapter to hold any license or do business.
- 23 SECTION 9. IC 26-3-7-6, AS AMENDED BY P.L.125-1997,
 24 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 1998]: Sec. 6. (a) The agency may issue the following
 26 licenses:
- 27 (1) A grain bank license may be issued to a person that:
- 28 (A) stores only grain bank grain;
- 29 (B) has a storage capacity of not more than fifty thousand
 30 (50,000) bushels of grain; and
- 31 (C) purchases less than fifty thousand (50,000) bushels of
 32 grain per year.
- 33 (2) A warehouse license may be issued to a person that:
- 34 (A) stores grain; and
- 35 (B) purchases less than fifty thousand (50,000) bushels of
 36 grain per year.
- 37 (3) A grain buyer license may be issued to a person that:
- 38 (A) purchases annually at least fifty thousand (50,000)

1 bushels of grain that are not for the sole purpose of feeding
2 the person's own livestock or poultry;

3 (B) does not store grain **for hire; and or**

4 (C) offers deferred pricing, delayed payments, or contracts
5 linked to the commodity futures or commodity options
6 market in connection with grain purchases.

7 (4) A buyer-warehouse license may be issued to a person that
8 operates both as a warehouse and as a grain buyer.

9 **(5) A seed buyer license may be issued to a person that:**

10 **(A) annually purchases at least fifty thousand (50,000)**
11 **bushels of seed that are not for the sole purpose of**
12 **feeding the person's own livestock or poultry;**

13 **(B) does not store seed for hire; or**

14 **(C) offers deferred pricing, delayed payments, or**
15 **contracts linked to the commodity futures or commodity**
16 **options market in connection with seed purchases.**

17 (b) An applicant shall file with the director a separate application
18 for each license or amendment of a license at the times, on the forms,
19 and containing the information that the director prescribes.

20 (c) An initial application for a license must be accompanied by a
21 license fee as follows:

22 (1) For a grain bank or for a warehouse or buyer-warehouse with
23 a storage capacity of less than two hundred fifty thousand
24 (250,000) bushels, two hundred fifty dollars (\$250) for the first
25 facility and fifty dollars (\$50) for each additional facility.

26 (2) For a warehouse or a buyer-warehouse with a storage
27 capacity of at least two hundred fifty thousand (250,000) bushels
28 but less than one million (1,000,000) bushels, five hundred
29 dollars (\$500) for the first facility and fifty dollars (\$50) for each
30 additional facility.

31 (3) For a warehouse or a buyer-warehouse with a storage
32 capacity of at least one million (1,000,000) bushels but less than
33 ten million (10,000,000) bushels, seven hundred fifty dollars
34 (\$750) for the first facility and fifty dollars (\$50) for each
35 additional facility.

36 (4) For a warehouse or buyer-warehouse with a storage capacity
37 greater than ten million (10,000,000) bushels, one thousand
38 dollars (\$1,000) for the first facility and fifty dollars (\$50) for

1 each additional facility.

2 (5) For a grain buyer, including a grain buyer that is also
3 licensed as a warehouse under the warehouse act, five hundred
4 dollars (\$500) for the first facility and fifty dollars (\$50) for each
5 additional facility.

6 **(6) For a seed buyer, five hundred dollars (\$500) for the first**
7 **facility and fifty dollars (\$50) for each additional facility.**

8 The director may prorate the initial application fee for a license that is
9 issued at least thirty (30) days after the anniversary date of the
10 licensee's business.

11 (d) Before the anniversary date of the license, the licensee shall
12 pay an annual license fee in an amount equal to the amount required
13 under subsection (c).

14 (e) A licensee or an applicant for an initial license must have a
15 minimum current asset to current liability ratio of one (1) to one (1).

16 (f) An applicant for an initial license shall submit with the person's
17 application a review level financial statement or better financial
18 statement that reflects the applicant's financial situation on a date not
19 more than fifteen (15) months before the date on which the application
20 is submitted. Not more than ninety (90) days after the end of a
21 licensee's fiscal year, the licensee shall file with the agency a current
22 review level financial statement or better financial statement that
23 reflects the licensee's financial situation for the fiscal year just ended.

24 A financial statement submitted under this section must:

25 (1) be prepared by an independent accountant certified under
26 IC 25-2.1;

27 (2) comply with generally accepted accounting principles; and

28 (3) contain:

29 (A) an income statement;

30 (B) a balance sheet;

31 (C) a statement of cash flow;

32 (D) a statement of retained earnings;

33 (E) the preparer's notes; and

34 (F) other information the agency may require.

35 The director may adopt rules under IC 4-22-2 to allow the agency to
36 accept other substantial supporting documents instead of those listed
37 if the director determines that providing the listed documents creates
38 a financial or other hardship on the applicant or licensee.

- 1 (g) An application for a license implies a consent to be inspected.
- 2 (h) A person that:
- 3 (1) does not operate a facility used to store grain;
- 4 (2) purchases:
- 5 (A) less than fifty thousand (50,000) bushels of grain per
- 6 year; or
- 7 (B) only grain used for the production of the person's own
- 8 livestock; and
- 9 (3) does not:
- 10 ~~(A)~~ purchase grain;
- 11 ~~(B)~~ (A) offer deferred pricing;
- 12 ~~(C)~~ (B) offer delayed payment; or
- 13 ~~(D)~~ (C) offer other contracts;
- 14 that are linked to the commodity futures or commodity options
- 15 market;
- 16 is not required to be licensed.
- 17 SECTION 10. IC 26-3-7-10, AS AMENDED BY P.L.125-1997,
- 18 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 19 JULY 1, 1998]: Sec. 10. (a) The minimum amount of bond, letter of
- 20 credit, or cash deposit required from a licensee is as follows:
- 21 (1) For a grain bank license or a warehouse license:
- 22 (A) ten thousand dollars (\$10,000); or
- 23 (B) ten cents (\$0.10) multiplied by the licensed bushel
- 24 storage capacity of the grain bank or warehouse;
- 25 whichever is greater.
- 26 (2) For a grain buyer, including a grain buyer that is also a
- 27 licensee under the warehouse act:
- 28 (A) ten thousand dollars (\$10,000); or
- 29 (B) five-tenths percent (0.5%) of the total amount the grain
- 30 buyer paid for grain purchased from producers during the
- 31 grain buyer's fiscal year immediately preceding the date the
- 32 bond, letter of credit, or cash deposit is due;
- 33 whichever is greater.
- 34 (3) For a buyer-warehouse:
- 35 (A) ten thousand dollars (\$10,000);
- 36 (B) ten cents (\$0.10) multiplied by the licensed bushel
- 37 storage capacity of the buyer-warehouse's facility; or
- 38 (C) five-tenths percent (0.5%) of the total amount the

1 buyer-warehouse paid for grain purchased from producers
2 during the buyer-warehouse's fiscal year immediately
3 preceding the date the bond, letter of credit, or cash deposit
4 is due;

5 whichever is greater.

6 **(4) For a seed buyer:**

7 **(A) ten thousand dollars (\$10,000); or**

8 **(B) five-tenths percent (0.5%) of the total amount the**
9 **seed buyer paid for seed purchased from producers**
10 **during the seed buyer's fiscal year immediately**
11 **preceding the date the bond, letter of credit, or cash**
12 **deposit is due;**

13 whichever is greater.

14 (b) Except as provided in subsections (g) and (h), the amount of
15 bond, letter of credit, or cash deposit required by this chapter may not
16 exceed one hundred thousand dollars (\$100,000) per license and may
17 not exceed a total of five hundred thousand dollars (\$500,000) per
18 person.

19 (c) The licensed bushel storage capacity is the maximum number
20 of bushels of grain that the licensee's facility could accommodate as
21 determined by the director or the director's designated representative
22 and shall be increased or reduced in accordance with the amount of
23 space being used for storage from time to time.

24 (d) Instead of a bond or cash deposit, an irrevocable letter of credit
25 in the prescribed amount may be provided with the director as the
26 beneficiary. The director shall adopt rules under IC 4-22-2 to establish
27 acceptable form, substance, terms, and conditions for letters of credit.
28 The director may not release a party from the obligations of the letter
29 of credit within eighteen (18) months of the termination of the
30 licensee's license.

31 (e) The director shall adopt rules under IC 4-22-2 to provide for
32 the receipt and retention of cash deposits. However, the director shall
33 not return a cash deposit to a licensee until the director has taken
34 reasonable precautions to assure that the licensee's obligations and
35 liabilities have been or will be met.

36 (f) If a person is licensed or is applying for licenses to operate two
37 (2) or more facilities in Indiana, the person may give a single bond,
38 letter of credit, or cash deposit to satisfy the requirements of this

1 chapter and the rules adopted under this chapter to cover all the
2 person's facilities in Indiana.

3 (g) If a licensee has a deficiency in the minimum **positive** net
4 worth required under section 16(a)(2)(B), 16(a)(3)(B), 16(a)(4)(A)(ii),
5 ~~or~~ 16(a)(5)(A)(ii), **or 16(a)(6)(B)** of this chapter, the licensee shall add
6 to the amount of bond, letter of credit, or cash deposit determined
7 under subsection (a) an amount equal to the deficiency.

8 (h) Except as provided in subsections (i) and (j), a licensee may
9 not correct a deficiency in the minimum **positive** net worth required by
10 section 16(a)(1), 16(a)(2)(A), 16(a)(3)(A), 16(a)(4)(A)(i), ~~or~~
11 16(a)(5)(A)(i), **or 16(a)(6)(A)** of this chapter by adding to the amount
12 of bond, letter of credit, or cash deposit required by subsection (a).

13 (i) A buyer-warehouse that has a bushel storage capacity of less
14 than one million (1,000,000) bushels or purchases less than one million
15 (1,000,000) bushels of grain per year may correct a deficiency in
16 minimum net worth by adding to the amount of bond, letter of credit,
17 or cash deposit determined under subsection (a) if the buyer-warehouse
18 has a minimum net worth of at least fifteen thousand dollars (\$15,000),
19 not including the amount added to the bond, letter of credit, or cash
20 deposit.

21 (j) A buyer-warehouse that has a bushel storage capacity of at least
22 one million (1,000,000) bushels, or purchases at least one million
23 (1,000,000) bushels of grain per year, may correct a deficiency in
24 minimum net worth by adding to the amount of bond, letter of credit,
25 or cash deposit determined under subsection (a) if the buyer-warehouse
26 has a minimum net worth of at least fifty thousand dollars (\$50,000),
27 not including the amount added to the bond, letter of credit, or cash
28 deposit.

29 (k) If the director or the director's designated representative finds
30 that conditions exist that warrant requiring additional bond or cash
31 deposit, there shall be added to the amount of bond or cash deposit as
32 determined under the other provisions of this section, a further amount
33 to meet the conditions.

34 (l) The director may accept, instead of a single cash deposit, letter
35 of credit, or bond, a deposit consisting of any combination of cash
36 deposits, letters of credit, or bonds in an amount equal to the licensee's
37 obligation under this chapter. The director shall adopt rules under
38 IC 4-22-2 to establish standards for determining the order in which the

1 forms of security on deposit must be used to pay proven claims if the
2 licensee defaults.

3 (m) The director may require additional bonding that the director
4 considers necessary.

5 SECTION 11. IC 26-3-7-16, AS AMENDED BY
6 P.L.253-1997(ss), SECTION 26, IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 16. (a) A licensee shall
8 have and maintain a current asset to current liability ratio of one to one
9 (1:1) and shall maintain, as evidenced by the financial statement
10 required by section 6 of this chapter, the following minimum **positive**
11 net worth:

12 (1) For a grain bank, minimum net worth is at least ten thousand
13 dollars (\$10,000).

14 (2) For a warehouse, minimum net worth is at least equal to the
15 sum of:

16 (A) fifteen thousand dollars (\$15,000); and

17 (B) ten cents (\$0.10) multiplied by the bushel storage
18 capacity of the warehouse.

19 (3) For a grain buyer, minimum net worth is at least **equal to the**
20 **sum of:**

21 (A) ten thousand dollars (\$10,000); ~~or~~ **and**

22 (B) five cents (\$0.05) multiplied by the total number of
23 bushels of grain purchased by the grain buyer during the
24 grain buyer's fiscal year immediately preceding the date net
25 worth is calculated.

26 ~~whichever is greater:~~

27 (4) For a buyer-warehouse that has a bushel storage capacity of
28 less than one million (1,000,000) bushels or purchases less than
29 one million (1,000,000) bushels of grain per year, minimum net
30 worth is at least equal to:

31 (A) the sum of:

32 (i) fifteen thousand dollars (\$15,000); and

33 (ii) ten cents (\$0.10) multiplied by the bushel storage
34 capacity of the buyer-warehouse; or

35 (B) five cents (\$0.05) multiplied by the total number of
36 bushels of grain purchased by the buyer-warehouse during
37 the buyer-warehouse's fiscal year immediately preceding the
38 date net worth is calculated;

- 1 whichever is greater.
- 2 (5) For a buyer-warehouse that has a bushel storage capacity of
- 3 at least one million (1,000,000) bushels or purchases at least one
- 4 million (1,000,000) bushels of grain per year, minimum net
- 5 worth is at least equal to:
- 6 (A) the sum of:
- 7 (i) fifty thousand dollars (\$50,000); and
- 8 (ii) ten cents (\$0.10) multiplied by the bushel storage
- 9 capacity of the buyer-warehouse; or
- 10 (B) five cents (\$0.05) multiplied by the number of bushels
- 11 of grain purchased by the buyer-warehouse during the
- 12 buyer-warehouse's fiscal year immediately preceding the
- 13 date net worth is calculated;
- 14 whichever is greater.
- 15 **(6) For a seed buyer, minimum net worth is at least equal to**
- 16 **the sum of:**
- 17 **(A) ten thousand dollars (\$10,000); and**
- 18 **(B) five cents (\$0.05) multiplied by the total number of**
- 19 **bushels of seed purchased by the seed buyer during the**
- 20 **seed buyer's fiscal year immediately preceding the date**
- 21 **net worth is calculated.**
- 22 (b) Except as provided in section 10 of this chapter, if a licensee
- 23 is required to show additional net worth to comply with this section, the
- 24 licensee may satisfy the requirement by adding to the amount of the
- 25 bond, letter of credit, or cash deposit required under section 10 of this
- 26 chapter an amount equal to the additional net worth required.
- 27 (c) The director may adopt rules under IC 4-22-2 to provide that
- 28 a narrative market appraisal that demonstrates assets sufficient to
- 29 comply with this section may satisfy the minimum net worth
- 30 requirement.
- 31 SECTION 12. IC 26-4-1-13, AS ADDED BY P.L.250-1995,
- 32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 JULY 1, 1998]: Sec. 13. (a) "Grain" means corn, wheat, oats, rye,
- 34 soybeans, barley, sorghum, oil seeds, and other agricultural
- 35 commodities as approved by the agency **and includes grain grown for**
- 36 **seed use.**

- 1 (b) The term does not include canning crops for processing.
- 2 (c) **As used in this section, "corn" includes all corn for all uses,**
- 3 **including popcorn, but excluding sweet corn and flint corn."**
(Reference is to SB 369 as printed January 23, 1998, and as amended on motion of Senator Jackman adopted February 2, 1998.)

and when so amended that said bill do pass.

Representative Bischoff