

Subject Agriculture  
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## Overview

This bill would establish a new state program to compensate grain farmers when grain buyers or grain warehouse operators breach a contract or otherwise fail to pay for grain or redeliver stored grain. The new program would be administered by the Minnesota Department of Agriculture (MDA) and would largely replace the existing surety bond requirements for grain buyers and grain warehouse operators.

Grain buyers would collect a grain indemnity premium of up to two-tenths of one percent of sale proceeds and remit premiums to MDA twice each year. Grain warehouse operators would not assess or collect premiums. MDA would award indemnity payments to eligible grain farmers who file a valid claim. Payment amounts would vary based on the type of grain sale (cash, deferred payment, etc.) or storage agreement (open storage, warehouse receipt), the amount of money involved, and when the contract was originated or the claim was filed.

In 2022, the legislature directed MDA to convene an advisory group and develop recommendations to improve the state's grain buyer and warehouse operator licensing program and better protect farmers who sell grain in this state (Laws 2022, chapter 95, article 2, section 30). MDA reported that although the group did not reach consensus, some group members supported the establishment of a grain indemnity program such as the one proposed in H.F. 2718.

## Summary

Section	Description
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| 1 | <b>Failure.</b><br>Defines "failure" for purposes of establishing when grain farmers (i.e., "producers") would be eligible for payment under the new grain indemnity program. A failure |
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Section	Description
	would include a grain buyer or grain warehouse operator's breach of contract, failure to pay, or failure to redeliver stored grain.
2	<b>Breach of contract.</b> Eliminates the requirement that producers damaged by a grain buyer's breach of contract must file a claim with MDA against the buyer's surety bond no later than 180 days after the breach. Under section 6, the producer would now have up to three years to file a claim under the new grain indemnity program.
3	<b>Bond requirements.</b> Provides that requirements for, and actions against, grain buyer and grain warehouse operator surety bonds would now be governed by the new requirements and procedures in section 6, subdivision 13, of this bill.
4	<b>Written voluntary extension of credit contracts; form.</b> Modifies language that must be included in the contract between a grain producer and grain buyer when the producer voluntarily defers payment for their grain until a later date. Instead of stating that this arrangement is not covered by the grain buyer's surety bond, the contract would include language notifying the producer that their full deferred payment amount may not be covered by the new grain indemnity program.
5	<b>Rules.</b> Authorizes MDA to promulgate administrative rules governing the new grain indemnity program.
6	<b>Grain indemnity account.</b> Establishes the grain indemnity program, as specified in the following subdivisions.  <b>Subd 1. Establishment.</b> Establishes the grain indemnity program under MDA's direction and control.  <b>Subd. 2. Account; appropriation.</b> Establishes a grain indemnity account in the agricultural fund and appropriates money in the account, including any interest earned on money in the account, to MDA to pay claims, issue refunds, and otherwise administer the new indemnity program.  <b>Subd. 3. Eligibility.</b> Provides that a producer is eligible for an indemnity payment if the producer sold grain to a grain buyer (whether licensed or not) or stored grain with a grain warehouse operator (whether licensed or not) and the grain buyer fails to pay for the grain or the grain warehouse operator fails to redeliver grain.

**Section**   **Description**

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**Subd. 4. Application.** Requires producers seeking indemnity payments to file a claim with MDA. Requires MDA to promptly evaluate the claim and notify the producer whether their claim is approved or denied. Allows producers to appeal MDA's decision to the Office of Administrative Hearings, the state's administrative law court.

**Subd. 5. Payment limitation.** Establishes indemnity payment rates that vary based on the type of grain sale or storage agreement, the amount of money involved, and when either the contract originated or a claim is filed. Requires MDA to deny claims for stored grain submitted by a seller that holds a state grain buyer's license and a license from the United States Department of Agriculture under the United States Warehouse Act. Requires MDA to pay claims in the order received; if sufficient money is not available in the grain indemnity account, once sufficient money becomes available, MDA would first award any pending refunds then issue full payment to each eligible claimant.

**Subd. 6. Court order.** Authorizes MDA to petition a district court to appoint a trustee or receiver to manage and supervise a grain buyer or public grain warehouse operator in default. Authorizes MDA to recover the cost of a court-appointed trustee from the grain indemnity account.

**Subd. 7. Debt obligation; subrogated claim.** Provides that indemnity claim payments constitute a debt obligation for the grain buyer or public grain warehouse operator in default and authorizes MDA to take legal action against the buyer or operator to recover the claim amount plus reasonable costs, attorney fees, and interest. Requires producers who receive indemnity payments for voluntary extension of credit contracts to transfer an equivalent amount of their interest in the contract to MDA. Authorizes MDA to recover any debt to the grain indemnity account from the management of a grain buyer or grain warehouse operator if the person acted negligently or fraudulently.

**Subd. 8. Grain indemnity premiums.** Limits grain indemnity premiums to two-tenths of a percent of the price of the grain sold to a grain buyer, with the actual premium amount determined by MDA.

**Subd. 9. Collection and submission of grain indemnity premiums.** Requires producers to pay the indemnity premium to MDA for all grain sold to a grain buyer in Minnesota. Requires grain buyers to deduct the premium from the sale proceeds, notify the producer of the premium amount in writing, and remit the premium to MDA on behalf of the producer. Requires grain buyers to document premiums collected in the buyer's books and records, to retain these books and records for at least three years, and to make them available to MDA for inspection. Classifies records or portions thereof seized or copied by MDA as

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private or nonpublic data. Requires grain buyers to remit premium dollars to MDA biannually.

**Subd. 10. Amount in grain indemnity account; basis for suspension and reinstatement of grain indemnity premium collection.** Requires producers to pay grain indemnity premiums until the balance in the grain indemnity account reaches \$15 million as of June 30<sup>th</sup> of any year. At that point, MDA could not require additional premium collections until the account balance falls to \$9 million or less. If MDA resumes collections, it would be required to announce its intention in advance through publication in the State Register and by notifying all licensed grain buyers.

**Subd. 11. Grain indemnity refund; opt out.** Allows producers that pay the grain indemnity payment to apply to MDA for a refund. Requires MDA to refund an eligible producer's grain indemnity premiums within 90 days unless insufficient funds are available in the grain indemnity account. Provides that a producer who receives a refund is ineligible for indemnity payments unless the producer successfully reenters the program and pays MDA all premium dollars previously refunded to the producer plus interest. A producer who reenters the program would not be eligible for indemnity payments for any breach of contract that occurs within 120 days of the producer's reentry. Prohibits refunds to any producer that received an indemnity payment within the preceding three years.

**Subd. 12. Penalties; enforcement action; costs and expenses.** Establishes civil penalties, in addition to any penalty or remedy otherwise provided by law, for any person who knowingly or intentionally refuses or fails to collect or pay indemnity premiums, makes a false statement/representation/certification, fails to make a required statement/representation/certification, or interferes with MDA duties under this section. Requires MDA, in addition to the penalties previously described, to order the grain buyer to pay any premiums owed to the program and authorizes MDA to assess interest.

**Subd. 13. Grain bonds; new license holders.** Requires newly-licensed grain buyers and public grain warehouse operators to obtain a \$100,000 surety bond effective for the first three years of the license. Exempts certain grain buyers that purchase no more than \$1 million of grain per year solely with cash or case-equivalents. Authorizes MDA to require a supplemental bond based on financial statements submitted to MDA by the grain buyer under current law. Prescribes certain terms of the surety bond.

**Effective date:** This section would take effect July 1 of this year.

Section	Description
7	<p><b>Statement of grain in storage; reports.</b></p> <p>Eliminates existing language requiring licensed public grain warehouse operators to file annual reports with MDA for purposes of determining the operator’s surety bond amount. These bonds would now be governed under section 6, subdivision 13, of this bill.</p>
8	<p><b>Transfer.</b></p> <p>Transfers \$5 million onetime from the general fund to the new grain indemnity account.</p>
9	<p><b>Repealer.</b></p> <p>Repeals the following statutes:</p> <ul style="list-style-type: none"><li>▪ Section 223.17, subdivisions 4 and 8: These subdivisions currently establish the surety bond requirements for licensed grain buyers. Under this bill, these existing bond requirements would effectively be replaced by the new grain indemnity program and surety bond requirements that would apply only to new licensees under section 6, subdivision 13.</li><li>▪ Section 232.22, subdivisions 4, 6, 6a, and 7: These subdivisions currently establish the surety bond requirements for licensed public grain warehouse operators. Under this bill, these existing bond requirements would effectively be replaced by the new grain indemnity program and surety bond requirements that would apply only to new licensees under section 6, subdivision 13.</li></ul>



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