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FEDERAL GRAIN INSURANCE CORPORATION

GOVERNMENT

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HEARING

BEFORE THE

SUBCOMMITTEE ON LIVESTOCK AND GRAINS

OF THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 10209

NOVEMBER 8, 1973

Serial No. 93-EE



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(III)

FEDERAL GRAIN INSURANCE CORPORATION

THURSDAY, NOVEMBER 8, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS
OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:10 a.m., in room 1301, Longworth House Office Building, the Honorable Bob Bergland [acting chairman] presiding.

Present: Representatives Bergland, Denholm, Litton, Gunter, Teague of California, Zwach, Price, Sebelius, Findley, Thone, and Symms.

Also present: Steve Allen, staff consultant; Steve Pringle, staff assistant; L. T. "Tex" Easley, press assistant; and Mrs. Martha Hannah, subcommittee clerk.

Mr. BERGLAND. The subcommittee will come to order.

We are meeting today to hear administration witnesses on H.R. 10209 which has been introduced by the gentleman from Illinois, Mr. Findley and the chairman of this subcommittee, Mr. Foley. The bill creates a Federal Grain Insurance Corporation and would provide protection to farmers' deposits of grain in an elevator or warehouse, up to a maximum of \$25,000. The Corporation would be self-financing with fees charged to members sufficient to cover all expenses and would be administered by the Secretary of Agriculture.

This is the first part of the overall hearings on the bill. We will hear congressional and administration witnesses today, and at a later date convene further hearings for the testimony of public witnesses.

Our first witness this morning is our colleague from the Committee of Agriculture, and an outstanding Member of the House, Paul Findley, from the State of Illinois.

[The bill, H.R. 10209, introduced by Mr. Findley and Mr. Foley, follows:]

[H.R. 10209, 93d Cong., first sess.]

A BILL to provide safeguards to producers in the storing and selling of grain; and to establish the Federal Grain Insurance Corporation

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Grain Insurance Act".

SEC. 2. It is the purpose of this Act to promote the national welfare by improving the economic stability of agriculture through a sound system for the storing, selling, and insuring payment for producer originated grain.

DEFINITIONS

SEC. 3. (a) MEANING OF WORDS.—Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

(b) TERMS DEFINED.—The definitions of terms contained in the Act shall apply to such terms when used in any regulations issued thereunder. In addition, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(1) "Act" means the Federal Grain Insurance Act, as amended and supplemented.

(2) "Department" means the United States Department of Agriculture.

(3) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(4) "Producer" means a landowner, landlord, or tenant involved in the originating of the grain to be insured.

(5) "Grain" means all products commonly classed as grain such as, wheat, corn, oats, barley, rice, rye, soybeans, flaxseed, grain sorghums, dry edible beans, sunflower seed, and such other agricultural products merchandised at or stored in a member's facilities.

CREATION OF THE CORPORATION

SEC. 4. To carry out the insurance purpose of the Act:

(a) There is hereby created as an agency of and within the Department of Agriculture a Federal Grain Insurance Corporation (hereinafter called the Corporation). The principal place of business of the Corporation shall be the District of Columbia, but there may be established agencies elsewhere in the United States under rules and regulations prescribed by the Board of Directors.

(b) The Corporation shall have a capital stock of \$50,000,000 subscribed by the United States of America, payment of which shall, with the approval of the Secretary of Agriculture, be subject to call in whole or in part by the Board of Directors of the Corporation.

(c) There is hereby authorized to be appropriated such sums as are necessary for the purposes of subscribing to the capital stock of the Corporation.

(d) Receipts for payments by the United States of America for and on account of such stock shall be issued by the Corporation to the Secretary of Treasury and shall be evidence of the stock ownership by the United States of America.

(e) Management of Corporation:

(1) The management of the Corporation shall be vested in a Board of Directors (hereinafter called the Board) subject to the general supervision of the Secretary of Agriculture. The Board shall consist of the Manager of the Corporation, two other persons employed in the Department of Agriculture, and two persons experienced in the grain and insurance business who are not otherwise employed by the Government. The Board shall be appointed by, and hold office at the pleasure of the Secretary of Agriculture, who shall not, himself, be a member of the Board.

(2) Vacancies in the Board so long as there shall be three members in office shall not impair the powers of the Board to execute the functions of the Corporation, and three of the members in office shall constitute a quorum for the transaction of the business of the Board.

(3) The Directors of the Corporation who are employed in the Department of Agriculture shall receive no additional compensation for their services as such Directors, but may be allowed necessary traveling and subsistence expenses when engaged in business of the Corporation, outside of the District of Columbia. The members of the Board who are not employed by the Government shall be paid such compensation for their services as Directors as the Secretary of Agriculture shall determine.

(4) The Manager of the Corporation shall be its chief executive officer, with such power and authority as may be conferred upon him by the Board. He shall be appointed by, and hold office at the pleasure of, the Secretary of Agriculture.

(f) The Corporation—

(1) Shall have succession in its corporate name.

(2) May adopt, alter, and use a corporate seal, which shall be judicially noticed.

(3) May make contracts and purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business and may dispose of such property held by it upon such terms as it deems appropriate.

(4) Subject to the provisions of the Act, may sue and be sued in its corporate name in any court of record of a State having general jurisdiction, or in any United States district court, and jurisdiction is hereby conferred upon such district court to determine such controversies without regard to the amount in controversy: *Provided*, That no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property.

(5) May adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers granted to it by law may be exercised and enjoyed.

(6) Shall be entitled to the free use of the United States mails in the same manner as the other executive agencies of the Government.

(7) With the consent of any board, commission, independent establishment, or executive department of State or Federal Government, including any field service thereof, may avail itself of the use of information, services, facilities, officials, and employees thereof in carrying out the provisions of this title.

(8) May conduct researches, surveys, and investigations relating to insuring payment for producer originated grain and shall assemble data for the purpose of establishing sound basis for such insurance.

(9) Shall determine the character and necessity for its expenditures under this Act and the manner in which they shall be incurred, allowed, and paid, without regard to the provisions of any other laws governing the expenditure of public funds and such determinations shall be final and conclusive upon all other officers of the Government.

(10) Shall be empowered to issue subpoenas and subpoenas duces tecum, as authorized by law, and to revoke, quash, or modify any such subpoena.

(11) Shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation and all such incidental powers as are customary in corporations generally.

(g) Personnel:

(1) The Secretary shall appoint such officers and employees as may be necessary for the transaction of the business of the Corporation pursuant to civil service laws and regulations.

(h) Moneys of the Corporation:

(1) Moneys of the Corporation not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

(2) The banking or checking accounts of the Corporation shall be kept with the Treasurer of the United States.

(3) The Corporation is authorized to borrow from the Treasury, and the Secretary of Treasury is authorized to loan to the Corporation on such terms as may be fixed by the Secretary of Treasury and the Corporation, such funds as in the judgment of the Corporation's Board of Directors is needed for insurance purposes not exceeding in the aggregate \$200,000,000: *Provided*, That the rate of interest shall not be less than the average rate on outstanding marketable and nonmarketable obligations as of the last day of the month preceding the making of such loan.

(4) The Corporation shall at all times maintain complete and accurate books of account and shall file annually with the Secretary of Agriculture a complete report as to the business of the Corporation. The financial transactions of the Corporation shall be audited at least once each year by the General Accounting Office for the sole purpose of making a report to Congress, together with such recommendations as the Comptroller General of the United States may deem advisable: *Provided*, That such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer the same, and to file a statement which shall be submitted by the Comptroller General with his report.

(5) The Corporation, including its franchise, its capital, reserves, and surplus, and its income and property, shall be exempt from all taxation now or hereafter imposed by the United States or by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

(i) The Corporation shall establish a Grain Insurance Fund of \$50,000,000 to be held by the Corporation for the payment of valid claims for producer originated grain insured under the Act. Such payments shall be restricted to a limit of \$25,000 for any one producer with any one member.

(j) A member is any party approved for the purpose by the Secretary of Agriculture under provisions of the Federal Grain Insurance Act and producer patrons of a member are eligible for insurance benefits.

(k) Producer patrons are insured under the Act for payment for producer originated grain up to the limit prescribed in (i) above and valid claims will be paid whenever the Secretary determines that a member has failed to meet the demands of his producer patrons.

ADMINISTRATION

SEC. 5. (a) The Secretary shall administer the Act.

(b) That the Secretary or his designated representative is authorized, upon application to him, to issue to any party a certificate of membership in the Corporation in accordance with this Act and such rules and regulations as may be made hereunder. Such certificate shall be prominently displayed in the member's place of business.

INSURANCE BENEFITS

SEC. 6. To carry out the purposes of the Act—

(a) Commencing with May 1, of the year following passage of the Act, the Corporation is authorized and empowered to insure producers of grain dealing with a member of the Corporation against loss due to the failure of such member to make proper payment for such grain.

(b) Insured grain shall be that grain to which the producer has retained continuous legal title.

(c) The insured price of grain shall be—

(1) the insured price shall be that price agreed upon, if any, at time of sale between the producer and the member;

(2) or as determined by the method of pricing agreed upon, if any, at time sale between the producer and the member;

(3) or in the absence of any such agreed price, the price shall be full market value less member's usual trading margin at the member's location as of the date the Secretary determines demand was made on the member by the producer and the member failed to make payment;

(4) or if a receivership develops and no prior demand has been made the price shall be as determined by the receiver; and

(5) and such prices shall be reduced by any unpaid liens against the grain.

(d) The quantity shall be that evidenced by original source documents less any quantities for which settlement has been made, and less any quantities required to offset conditioning authorized by the producer.

(e) The Corporation may withhold payment of such portion of the insurance payment of any producer as many be required to provide for the payment of any liability of such producer to the member.

(f) Upon payment of any insurance claims hereunder the Secretary shall be subrogated to all rights of the beneficiary of such claims to the extent of such payment.

(g) Such insurance is limited to the persons and dollar restriction prescribed in section 4, paragraphs (i), (j), and (k), and claimants for losses must comply with regulations issued hereunder.

ELIGIBILITY REQUIREMENTS

SEC. 7. Parties making application for membership in the Corporation shall—

(1) Legally be in the business of buying and/or storing grain and have suitable fixed facilities for the receiving and handling of grain.

(2) Shall have and maintain at all times a financial condition at least equivalent to that required for the issuance of a certificate of membership; the failure to maintain such a condition will render the certificate subject to suspension or revocation.

(3) Have reputable, experienced, and competent management.

(4) Have a bond or bonds to secure the faithful performance of his obligations as a storer and/or buyer of grain in such amount as may be determined by the Secretary.

(5) Keep such accounts, records, and memorandums as fully and correctly disclose all transactions involving his business, including the true ownership of such business by stockholding or otherwise; whenever the Secretary finds that the accounts, records, and memorandums of any such member do not fully and correctly disclose all transactions involved in his business the Secretary may prescribe the manner in which they shall be kept.

(6) Every member shall make reports to the Secretary concerning such member's business in such form and at such times as the Secretary may require.

(7) Be licensed, if required, and faithfully observe all requirements under any license to store or buy grain held under any applicable State or Federal law.

(8) Observe sound warehousing and merchandising practices.

(9) Have and maintain such insurance and fidelity bond coverage as the Secretary may deem necessary.

(10) Observe any other requirements the Secretary may deem necessary.

EXAMINATIONS

SEC. 8. The Secretary is authorized to cause examinations to be made of any applicant, or member's business including facilities, grain stocks, books, records, papers, and accounts.

TERMINATION OF MEMBERSHIP

SEC. 9. (a) A member may terminate his status as an insured member by giving notice in writing of intent to terminate.

(b) The Secretary may, after opportunity for hearing has been afforded to the member concerned, suspend or revoke any certificate of membership for any violation of or failure to comply with any provisions of this Act or of the rules and regulations made hereunder. Pending investigation, the Secretary, whenever he deems necessary, may suspend a member temporarily without hearing.

COOPERATION WITH STATES

SEC. 10. In the discretion of the Secretary, he is authorized to cooperate with State officials charged with enforcement of State laws relating to storing, and/or buying of grain; but the power, jurisdiction, and authority conferred upon the Secretary under the Act shall be exclusive with respect to all persons securing a certificate of membership hereunder so long as said membership remains in effect.

FEES

SEC. 11. The Secretary may charge, assess, and cause to be collected a reasonable fee for every examination, certificate of membership, and assessment for insurance (as determined by the Corporation) under the provisions of this Act and the regulations thereunder. All such fees collected shall be deposited with the Secretary of the Treasury for the account of the Corporation.

ACTION IN INSOLVENCY

SEC. 12. Notwithstanding any other provisions of law, if the report of an examination discloses that the obligations of a member to other parties has been jeopardized by an insufficiency or deterioration of assets, the Secretary may take possession of the member's business and his assets, shall cause an audit to be made, and if the audit discloses insolvency the Corporation shall be appointed receiver.

CRIMINAL PENALTIES

SEC. 13. (a) Whosoever falsely advertises, represents, publishes, or displays any sign reasonably calculated to convey the impression that a nonmember has insurance under this Act, shall be punished as follows: A corporation, association, partnership, business trust, or other business entity by a fine of not more than \$1,000; an officer or member thereof participating or knowingly acquiescing in such violation or an individual violating this section, by a fine of not to exceed \$1,000 or imprisonment for not more than one year, or both.

(b) Whosoever knowingly conceals, removes, disposes of, or converts to his own use or that of another, any assets used by a member to influence the Secretary in granting of a certificate of membership or continuation thereof shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction, be fined not more than \$5,000 or imprisoned not more than five years, or both; but if the value of such assets does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned for not more than one year or both.

(c) Whosoever shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any member subject to this Act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memorandums, of all facts and transactions appertaining to the business of such member, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such member, or who shall willfully refuse to submit to the Secretary or to any of his authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such member in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than \$1,000 nor more than \$5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

SEPARABILITY

SEC. 14. The sections of this Act and the subdivisions of sections are hereby declared to be separable, and in the event any one or more sections or parts of same of this Act are held to be unconstitutional, the same shall not affect the validity of other sections or parts of sections of this Act.

APPROPRIATIONS AND REGULATIONS

SEC. 15. (a) There are hereby authorized to be appropriated such sums, not in excess of \$5,000,000 for each of the first five fiscal years beginning with the fiscal year during which enactment occurs to cover the operating and administrative costs of the Corporation in such amounts and at such times as the Secretary may determine.

(b) The Secretary and the Corporation, respectively, are authorized to issue regulations as may be necessary to carry out the provisions of this Act.

RIGHT TO AMEND

SEC. 16. The right to alter, amend, or repeal this Act is hereby reserved.

STATEMENT OF HON. PAUL FINDLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. FINDLEY. Thank you, Mr. Chairman. I would like to first offer my sincere thanks to you, to Mr. Foley, and to the subcommittee members for holding this hearing on H.R. 10209.

Rather than taking this time to present the merits of this proposal, the Federal Grain Insurance Act, I will instead outline briefly how I came to introduce it, with Mr. Foley as cosponsor.

For many years some farmers have faced substantial losses when warehouses, elevators, or grain dealers suffered bankruptcy, or for other reasons could not pay for grain the farmers had deposited with them. In Illinois alone, up until 6 years ago, losses averaged approximately \$5 million annually to farmers. In 1967, the General Assembly of Illinois passed a new bonding law which was designed to meet the problem. On its face it was a good law, an improvement; but losses continued, partly because bonding only partially covered these losses.

In 1972, over 20 elevators and warehouses in Illinois went out of business. Some went bankrupt, some closed because of the death of the owner, others because some legal problem developed. Closings such as these are bound to happen in any industry, and do not necessarily create serious problems to customers.

But in these cases a serious problem did exist. In many instances farmers who had delivered their grain to these businesses for storage or later sale, were not reimbursed; or if they were reimbursed, it was a partial reimbursement. Last May the widely respected *Prairie Farmer* magazine reported that Illinois farmers alone had lost \$15 million in the 5-year period since the new bonding law had gone into effect. Two failures alone last year cost farmers over \$1,200,000.

We will all agree, I am sure, that when farmers lose commodities they have produced at great expense, the loss is not only bad news for them, but also for the entire grain handling industry.

Illinois has a problem. What about the rest of the Nation?

Starting with the premise that farmers' grain deposits should be just as safe as money in the banks, I undertook a survey last year to determine if Federal legislation was needed, and if so, what form it should take.

Several startling facts became evident:

1. Fifteen States have no grain warehouse regulation statutes at all. These include several leading agricultural States. Among them are California, Arkansas, Colorado, Mississippi, and Tennessee. Indiana has just recently passed a licensing law.

2. Several other States, which seem to have good laws, nonetheless have severe problems with grain storage and dealers. Illinois is in this category.

3. In some States, outright competition exists between States and Federal licensing authorities.

4. No one I could locate has compiled data, or made a national study of grain warehousing and dealers in recent years. This made difficult my survey of the problem. While not being able to get the precise scope of the problem nationwide, I did learn of farmer losses in other States. And I concluded that Federal legislation is needed.

5. The U.S. Warehouse Act has not been amended since 1931, nor have review hearings been held during that period. This act has a good track record, obviously, but many things have changed in 42 years.

While I was conducting this survey, Jesse Dowell, a past president of the Illinois Society of Professional Farm Managers and Rural Appraisers, and a farm manager of a bank in Champaign, Ill., suggested to me that a Federal insurance fund modeled after the Federal Deposit Insurance Corporation employed so successfully by banks could be the answer.

In my view the basic idea is sound.

Following extensive discussions with officials of the National Grain and Feed Association, USDA, State government officials, and farm managers and farmers, I concluded that the idea was worthy of our consideration, and the bill was drafted.

I am particularly grateful to Mr. Foley, who has also taken a great interest in the problem, and cosponsored H.R. 10209 with me. I am also grateful to the Department of Agriculture officials who have

agreed to come before the committee today to discuss technical aspects of this proposal, and also were a great help to me in the drafting of the bill.

Thank you very much, Mr. Chairman.

Mr. BERGLAND. Thank you very much, Mr. Findley. Any questions of our colleague?

Mr. TEAGUE. I have one, Mr. Chairman.

Mr. BERGLAND. Mr. Teague?

Mr. TEAGUE. I'm just an ex officio member of the committee, and I'm not familiar with your bill. Does somebody in the Government, or the farmer who deposits the grain in that warehouse pay some sort of premium, or is it just a guarantee by the Federal Government against loss?

Mr. FINDLEY. Well, this would establish an insurance corporation, which would be a U.S. financial institution operated by the Secretary of Agriculture.

Those who would be covered by the insurance would be members of the Corporation. Fees would be assessed against members to cover the administrative cost of the program. These fees, of course, would ultimately be passed along to the customers of the elevators and warehouses which had that service. It would be in an entirely voluntary program.

Mr. TEAGUE. The fee would be paid primarily by the warehouses?

Mr. FINDLEY. The fees for the insurance coverage would be paid by the members, such as an elevator, a warehouse, or a grain dealer. These fees, of course, would be a part of the cost of doing business for them, so they would naturally pass these on to their customers.

Mr. TEAGUE. It would be voluntary?

Mr. FINDLEY. It would be voluntary, yes.

Mr. TEAGUE. I assume the idea being that the warehouse would let it be known they were operating under this program and get more business than the warehouses and elevators that did not participate in the program.

Mr. FINDLEY. Yes.

Mr. TEAGUE. Is that a fair assumption?

Mr. FINDLEY. Just as every bank seems to take great pride in the fact that it is a member of the Federal Deposit Insurance Corporation. I am sure the grain merchants would take a similar pride in their membership in this Corporation.

Mr. TEAGUE. Thank you.

Mr. BERGLAND. Mr. Thone?

Mr. THONE. And this program would cost the Government how much?

Mr. FINDLEY. My bill provides that the administrative costs could be assumed out of general revenue for the first 5 years, but not beyond that period. After 5 years all costs of the program would have to be met through the assessment made against members of the Corporation.

Mr. TEAGUE. May I ask one more question?

Mr. BERGLAND. Go ahead.

Mr. TEAGUE. Do you have any notion at all about what those costs might come out to?

Mr. FINDLEY. I have presented that question to the Department of Agriculture and asked them to research it and I am sure the Department witnesses will have some guidance on that.

Mr. BERGLAND. Mr. Denholm?

Mr. DENHOLM. How would the proposal be administered against the bonding and licensing statutes now in existence in the States?

Mr. FINDLEY. It is hard to forecast with accuracy the future. This applies to grain that remains the property of the farmer, and, as I understand the bonding arrangement, the bonds that are held by warehouses go to many other considerations.

So, I would not expect that this would eliminate the need for bonding. In fact, this bill contains some provisions requiring members have bonds of a certain type. That is as precise as I can be in my answer.

Mr. DENHOLM. What amount of coverage is proposed and is it contemplated that it may extend to losses by fire, theft, management, or otherwise?

Mr. FINDLEY. This would cover loss, or destruction of the grain, which is the personal property of the farmer, for any cause. Because of the insurance coverage provided by this act, the grain that the farmer had on deposit with the merchant would be just as safe as money you have deposited in a bank.

Mr. DENHOLM. Is it contemplated to insure against deterioration of all commodities in storage?

Mr. FINDLEY. I will have to defer to the other witnesses on that because there are some technical questions as to the precise value of the grain at any given point. Just how that would be worked out, I can't answer.

Mr. DENHOLM. Will the proposal in any way lessen the interest of warehouse management in the maintenance of the quality of grain, or the protection of grain?

Mr. FINDLEY. I think to the contrary, membership in the Corporation provided by this act would assure a much better level of management of an elevator or warehouse because there would necessarily be standards set and inspection of these merchants by officials of the Corporation which provides this insurance.

They would have to measure up to certain standards to be eligible for insurance coverage; and undoubtedly among the standards would be that they maintain the quality of the grain stored.

Mr. DENHOLM. I assume it would not insure against the deterioration of market prices?

Mr. FINDLEY. No, I think that is a safe assumption.

Mr. DENHOLM. It would not be like the FDIC, where a depositor is insured to equal value—is that correct?

Mr. FINDLEY. I think it would be best to direct that question to the Department witnesses; I don't have the precise answer.

Mr. DENHOLM. Thank you very much; and I compliment you on your consideration and the presentation of the proposed legislation.

Mr. BERGLAND. Mr. Zwach?

Mr. ZWACH. Thank you, Mr. Chairman. I should compliment you, Congressman Findley, for bringing up this matter. It certainly is important and affects a great many people.

In our State we do have a bonding law, and we haven't had much of a problem; but we have often had checks that bounce, where there is a cash sale. Is it contemplated that this would cover this area, also?

Mr. FINDLEY. I don't think so, I cannot see how it could be covered.

Mr. ZWACH. Now, under the FDIC banks undergo rigid examination before they qualify; and they undergo continuing examination.

Mr. FINDLEY. That's correct.

Mr. ZWACH. Is it contemplated there would be involved in this an audit, a checking of the amount of grain that's in these bins; a check so that the Corporation wouldn't lose a tremendous amount in evasions, etc.?

An elevator man, if he saw the fellow, the shorted man was going to get this money, the elevator man might play a bit elusive if he thought somebody was going to pick up the bill.

Have you gone into this matter on how you keep an audit like the FDIC does?

Mr. FINDLEY. Actually, I would expect the operation of this act to be quite similar to the operation of the FDIC act; and I would see as the main benefit of this act better business management by firms that do handle grain for farmers.

Mr. ZWACH. With supervision it very well could result in improving management, might be some help to management; I know sometimes the banks get help from FDIC.

Mr. FINDLEY. Because of the continuing audits and standards that would be set, I would expect that the incidence of bankruptcy and failure would be much less than they have been in the past.

Mr. ZWACH. That's all.

Mr. BERGLAND. Thank you, Mr. Zwach. Any other questions?

Mr. SEBELIUS. I want to commend Mr. Findley for his thoughtfulness; and I will admit unless I get a ground swell of push for this bill from my district, I will vote against it. I'll start the morning off with that.

Mr. BERGLAND. Any other comments, or questions?

Mr. THONE. Just one more question, you may not know the answer to this. What has been the experience of the FDIC? As I understand your proposal, after 5 years you expect it to be self-supporting; has that been the experience of FDIC, do you know?

Mr. FINDLEY. I can't answer that for certain, although I think it is. Under my bill, it would have to be self-supporting. It is required that the fee is assessed against members to cover all costs. So, this would not be a drain on the Treasury after a 5-year period.

Mr. BERGLAND. Mr. Denholm?

Mr. DENHOLM. Do you contemplate your proposal will not be compulsory.

Mr. FINDLEY. Exactly, there is no compulsion contemplated at all. I think it's conceivable that some State agencies might decide that membership in the Corporation would be a suitable condition for eligibility for licensing in that particular State. That would be a decision that they alone would make.

But, this act is drafted so that membership in the Corporation is entirely voluntary.

Mr. DENHOLM. Do you agree that bonding and licensing statutes are not voluntary pursuant to laws of the States?

I am concerned about the protection of those in the greatest need of protection and if a voluntary program was adequate the bonding and licensing statutes would not be mandatory.

Mr. FINDLEY. Well, I think that those who are members of the Corporation will advertise that fact very widely, and this will tend to invite business to their firm, rather than those that don't have this type of membership to offer.

I think it would also result in higher standards of business management, which also would tend to draw customers. Further, a lending institution, such as a local bank, which provides financial support for an elevator would view membership in this Corporation on the part of the elevator, as a great asset; and the bank, of course, would be in a position to encourage the elevator to take out a membership. This attitude on the part of the lending institutions naturally might well make this a rather universal program in a short time.

Mr. DENHOLM. Is FDIC compulsory for National chartered banks?

Mr. FINDLEY. I think it is for National, not for State banks.

Mr. BERGLAND. Mr. Findley, just to be sure the record is clear, this bill would in no way preempt the States who do have bonding requirements in which the interest of the depositors of grain are protected.

Mr. FINDLEY. That is absolutely correct.

Mr. BERGLAND. Would this bill in any way affect the Commodity Credit Corporation approved warehouse program, wherein CCC requires certain commitments and guarantees the elevator operator, for Commodity Credit, grain to be stored?

Mr. FINDLEY. I see no conflict whatever between the two programs.

Mr. BERGLAND. Any other comments? Mr. Price.

Mr. PRICE. Thank you, Chairman.

I'm afraid I'm late this morning, some constituents called at my office. You may have already covered this, but what instances could you cite that brought about your feeling for this legislation; can you tell me of some instances?

Mr. FINDLEY. That was the gist of my statement, and I'll give it to you, if you don't mind.

Mr. PRICE. All right. Let me ask you another question. What do you think about the insurance loan approach in the operating loans, and in the farm ownership loans, so that the Government would not have to appropriate money; would that be a feasible approach on this situation that you are trying to bring about?

Mr. FINDLEY. Off-hand I don't see how it would. The purpose of this act is to insure personal property of farmers while it's in the control of other parties, such as a warehouse, an elevator, or a dealer, where it may be destroyed, or may lose value because of bankruptcy. It is to protect against such happenings, that the act is designed.

Mr. PRICE. Thank you.

Mr. BERGLAND. Thank you very much, Mr. Findley, for bringing this matter to our attention.

Our next witness will be Mr. Gerald L. Oien, Chief of Warehouse Service Branch, AMS, Department of Agriculture here in Washington, who is accompanied by Mr. Wishmire and Mr. Hodges, also of the Department of Agriculture.

STATEMENT OF GERALD L. OIEN, CHIEF, WAREHOUSE SERVICE BRANCH, TRANSPORTATION AND WAREHOUSE DIVISION, AGRICULTURAL MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY H. J. WISHMIRE, WAREHOUSE SERVICE BRANCH (AMS) USDA, INDIANAPOLIS, IND., AND DON HODGES, WAREHOUSE SERVICE BRANCH (AMS) USDA, PRAIRIE VILLAGE, KANS.

Mr. OIEN. Thank you, Mr. Chairman.

As Mr. Bergland said, my name is Gerald Oien, I am Chief of the Warehouse Service Branch—

Mr. BERGLAND. Mr. Oien, may I interrupt you. Would you speak directly in the microphone, it is hard to hear you.

Mr. OIEN. I'm sorry. My name is Gerald Oien, I am Chief of the Warehouse Service Branch, Transportation and Warehouse Division, Agricultural Marketing Service, U.S. Department of Agriculture.

With me are Don Hodges, officer in charge of the National Warehouse Service Center, Prairie Village, Kans., and Harry Wishmire, officer in charge of the Indianapolis, Ind., area office.

Mr. Chairman, we have prepared a brief summary statement concerning H.R. 10209, the proposed Federal Grain Insurance Act, which I would like to ask to be incorporated into the record at this point.

Mr. BERGLAND. Without objection, it will be included in the record.

Mr. OIEN. We have additional comments which we would like to make to more fully describe the technical aspects of this proposed legislation. These comments are generally organized under the specific sections of the bill. In order for us to better organize our thoughts on how we see the Federal Grain Insurance Act, each of us has concentrated on a specific area, rather than all of us on all areas.

However, on questions that may be raised, we plan to answer them individually, or collectively, to provide the best information we can develop.

Before discussing the specific sections of the bill, I would like to ask Mr. Hodges to comment on the State and Federal laws now in effect that interrelate to the proposed legislation.

Mr. HODGES. About 25 States have laws that govern the storage of grain, and a few have laws that deal with the buying of grain. The U.S. Warehouse Act, which is a voluntary act, also covers agricultural commodities in federally licensed warehouses. Most of these agencies already have basic eligibility requirements and examination programs concerning stored grain, but not unsettled purchases from the farmers.

Since this bill involves both the buying and storage of grain, it is contemplated that some of the present programs can be expanded to cover the examination requirement under the bill to avoid duplication of effort and costs.

We will go into more detail about the Federal-State cooperation later on in our testimony.

Mr. BERGLAND. Does that conclude the statement?

Mr. HODGES. On this particular point.

Mr. OIEN. We would solicit any questions you might have on the specific sections here.

Mr. BERGLAND. Any questions, or comments from members of the committee? Mr. Denholm.

Mr. DENHOLM. Do you have statistical information available to you as to losses of grain in the possession of the warehouse that has been purchased, or stored? I think the gentleman referred to "unsettled for grain."

Mr. HODGES. I think Congressman Findley probably has a better handle on this than we do. We know there have been some losses, in some specific areas greater than in others; but we have no gathering facilities for this information to be brought together on unsettled accounts.

Mr. DENHOLM. Do you receive complaints on that issue?

Mr. HODGES. Yes, we have, through the warehousemen and local agencies.

Mr. DENHOLM. Are there few, many or some complaints?

Mr. OIEN. I wouldn't say a lot of complaints, but maybe it is that they just don't complain to us.

Mr. DENHOLM. What was the nature of the complaints that you received and where did they originate?

Mr. HODGES. Most of the ones we received in Kansas City probably are associated with the Commodity Credit Corporation program where there may have been a loss. The Commodity Credit Corporation has a blanket insurance policy that covers their stored grain. Involved in reviewing these cases, there may also be producers of grain that have not been paid for it, or other depositors that do suffer a loss. So, it would probably involve some shortage cases we are associated with.

Mr. DENHOLM. Does the grain that is not settled for, grain in the process of being purchased or delivered to the market or to the warehouse—is the consignor or conveyor protected by the bond or the insurance umbrella of the warehouse?

Mr. HODGES. Not under most surety bonds. There are a few States that have expanded their warehouse examinations, or warehouse laws to cover the facets this bill specifically involves, but those are in their infancy.

Mr. DENHOLM. The testimony of our distinguished colleague, Mr. Findley, is that there are several States, I believe he testified that 15 States, do not have bonding and licensing statutes.

Do you know whether those States without bonding or licensing laws typically involve producers of a great amount of warehouse commodities?

Mr. HODGES. Well, he mentioned California and Arkansas, and certainly they would be. There are about 25 States that are major grain-producing areas, that do have warehouse laws that cover warehouse receipt grain.

Mr. DENHOLM. Do you know whether losses have been excessive in those States void of bonding and licensing laws as compared to those areas that have bonding and licensing statutes?

Mr. TEAGUE. Frank, would you use the microphone, I can't hear you.

Mr. DENHOLM. I'm sorry. Did you hear the question?

Mr. HODGES. Yes, sir.

Mr. DENHOLM. I will ask the question again. Is it within your knowledge, whether the losses are greater in States without statutes

compelling bond and license compliance as compared to those that mandate by law bonding and license compliance?

Mr. HODGES. I do not believe we have because the major grain-producing States, particularly in the Corn Belt, the soybean and wheat area, do have State laws; other than probably—we mentioned California and Arkansas.

So far as I am aware the major losses probably have been in the major producing areas.

Mr. DENHOLM. Based upon your experience and direct knowledge of warehouse laws and losses, do you have an opinion as to the merit of this proposed legislation?

Mr. HODGES. I have a personal opinion. I think there is merit as to expanding the present laws, or this type of legislation, to covering—particularly to cover unsettled accounts; accounts that the farmer has deposited the grain; the grain has been purchased; the warehouseman owes the farmer for the grain. This is the particular area I think where there is merit, speaking from a personal viewpoint.

Mr. DENHOLM. Do you think there is a possibility of an effective national bonding and licensing law, is that possible?

Mr. HODGES. Yes, I think it is. Through my knowledge of several State agencies, they are also talking about this very subject, this whole area of unsettled accounts; that is being discussed, and I think there is some leadership that could be offered.

Mr. DENHOLM. Very well, thank you.

Mr. BERGLAND. Thank you very much, Mr. Denholm. Are there any other questions? Mr. Zwach.

Mr. ZWACH. I brought up the question before, and I think you indirectly addressed yourself to it. One of our problems is the payment for grain that has been sold, but the funds are not available. Isn't this a real area in the grain business, this problem, would you comment on that?

Mr. OIEN. This is that area in which we see the Federal Grain Insurance Corporation really being beneficial. Up to now, between the State governments, and the Federal Government, and the warehousing laws, the losses on strictly warehousing transactions have not been excessive. When a farmer has grain in the elevator in storage, he is protected in 25 States, and in other States too, if they have Federal licensing; he is protected by a bond.

But, when he sells that grain through a grain dealer, once he gives up title to that grain, in most cases he has lost the bond protection under the warehouse laws. The insurance, the Federal Grain Insurance Corporation as we see it, is designed to protect this.

Mr. ZWACH. Would it protect a check that bounced, where payment was not made? This is the thing that I think is very important. I would like to ask Mr. Findley. I think that is an area that is very important.

A farmer, for instance, is combining; he is delivering grain for a week, or 10 days, selling it as it goes in, but he is not there getting the check. Later he wants to get his cash, and there is no money. This is the area that I have found the most troublesome. It is this area that I think ought to certainly be included; you should not have to store it in order to have the benefit of this protection.

Mr. FINDLEY. Am I correct in my understanding that such a circumstance would be covered by the provisions of this act?

Mr. OIEN. Yes, I think so.

Mr. DENHOLM. Will the gentleman yield for a question on issue?

Mr. ZWACH. Yes.

Mr. DENHOLM. Do you intend to extend your comment to include the possibility of subsequent transactions where the warehouseman, the country buying station may sell to a trucker, for instance, and payment is in default? Are you suggesting that the insurance should extend to the warehousemen and to the producer?

Mr. ZWACH. I am talking now about protecting the producer. Now, if a warehouseman sells to a trucker whose check bounces, and that happens; that's a different area and I don't know whether that would be covered in this act. But, certainly, that happens.

Mr. BERGLAND. Thank you, Mr. Zwach. Mr. Price.

Mr. PRICE. Thank you, Mr. Chairman. I would like to ask Mr. Findley, is cotton under this bill?

Mr. FINDLEY. I don't believe it is. In fact, it's the Grain Insurance Act; and I would presume that cotton is not contemplated. But, there is no reason why it couldn't be expanded if cotton producers face a problem similar to that of grain producers.

Mr. PRICE. Wasn't there legislation we were talking about a week, or two ago that had something to do with the same problem, only in cotton?

Mr. FINDLEY. I'm not aware of that. Maybe the witness could answer as to the coverage of that act.

Mr. PRICE. Hasn't there been discussed in the last 2, or 3 weeks very similar legislation to cover such instances as warehouses going broke?

Mr. OIEN. In cotton?

Mr. PRICE. Yes.

Mr. OIEN. Not to my knowledge, but that doesn't mean that it hasn't been discussed.

Mr. PRICE. This very situation exists in cotton, and I can cite one example where a corporation was bringing in warehouse receipts—I can see that would be no different from grain—in the bank. The bank was loaning money on these warehouse receipts to the tune of about 15 million dollars. Consequently, they were taking these checks around to about five different banks in the State—you probably know the case—and, when the people went to the bank to get the money, or to the warehouse, there was no cotton to be had. Consequently it broke the bank.

These people were given the \$20,000 under FDIC; and this is an example in support of your legislation. I hope that eventually we will have the same program for cotton, and maybe consider some other grains that should come under such legislation.

On page 2, of your statement, in the last sentence, you stated, "Funds will be maintained by assessments to cover losses, as determined by the corporation."

I wonder what these assessments could amount to, or what figures you are contemplating.

Mr. OIEN. We will get into that in a little more depth a little bit later. We think one-tenth of 1 percent, that Mr. Findley talked about, would probably be adequate.

Mr. PRICE. One-tenth of 1 percent of the amount of grain, we will say, that they have put in that; its net worth at that time?

Mr. OIEN. The value of the grain, one-tenth of 1 percent of the value of the grain. In the case, let's say, of \$5 worth of soybeans it would be half a cent; \$1 worth of oats, it would be one-tenth cent.

Mr. PRICE. In other words, it would be punishing the firms to finance this Corporation.

Mr. OIEN. That would be right.

Mr. PRICE. Then, would the Corporation be paying back to the Federal Government in time the \$50 million that you anticipate borrowing to start the fund?

Mr. OIEN. As we see it, that \$50 million in capital stock that the Treasury subscribes to, the Corporation would be responsible for keeping that pretty much intact, within 5, or 10 percent one way or another there could be more, or slightly less. This would be the responsibility of the Corporation, to keep the \$50 million intact.

Mr. PRICE. What I'm getting at, if the Corporation did make money, and the receipt stub was \$50 million from the Federal Government's tax money, the property of the people; is there a provision in there that would be paid back?

Mr. OIEN. To be paid back to the——

Mr. PRICE. Treasury. It would be paid back to the Treasury, should the Corporation make a profit.

Mr. OIEN. I'm afraid I don't quite understand the question, maybe one of the other fellows——

Mr. PRICE. Well, let me explain it to you. You are borrowing \$50 million from the Treasury to start the Corporation. Then you are charging the producer one-tenth of 1 percent, you say, to take out this insurance.

Now, should the Corporation make a profit through the participation of the producers, and you began to have a surplus, it would seem to me it would be your responsibility to pay back the Federal Government the \$50 million that you borrowed.

Mr. OIEN. Yes, that would be contemplated.

Mr. HODGES. It would also be considered reducing the one-tenth of 1 percent to the farmer, I think, possibly, to a lesser amount, this figure could fluctuate, according to the losses.

Mr. PRICE. I see also, you have authority to borrow up to \$200 million at regular interest rates. I wonder if there should be some legislative comment as to what you mean by regular interest rates. I think that ought to be defined in the legislation because we have seen too much of this 2-percent money, where the Government pays 6, 7 and 8.

Mr. HODGES. I would hope that in the legislation, that we would perhaps put the wording, the going interest rate at the time the transaction was performed, perhaps; so that we don't get into a position like the creditor, where they lose \$3 million almost, average, per year. I would hate to get into that situation and have it all destroyed because of financial siphoning off every year.

Mr. OIEN. It is my personal understanding that we would be paying the rate of——when I say "we," I am talking of the Corporation——would be paying the rate of interest that the Treasury is having to pay for money.

Mr. PRICE. Thank you.

Mr. BERGLAND. Thank you, Mr. Price. Mr. Findley?

Mr. FINDLEY. In drafting this bill several questions arose, and I'd

like to bring these to your attention, and see what your recommendation would be.

Section 4(h) (3) under section 15 specifies the time limit on appropriations for administrative costs. It is now limited for insurance purposes, and does not contemplate that administrative costs would be included.

I think it would be wise to add the words "and administrative costs" after the words "for insurance purposes"; which would give the Corporation a source of funds in the event that such are needed for administrative purposes.

This is an oversight on my part, and I would think it would be a desirable change. Would you agree on that?

Mr. OIEN. We would agree with that.

Mr. FINDLEY. Section 4(i) provides the funds for the payment of claims up to \$25,000. Sections 7(4) and 7(9) requires bond to be held by eligible members. Insurance claims for grain receive priority over all other claims. What is the relationship between the claims against the proceeds in bonds, and the claims against the proceeds of the insurance program?

Mr. WISHMIRE. Well, Congressman, I think the point there is that the Corporation would pay out the insurance to the producer; but then it would recollect it from the bond, from any bond that might be in effect through any other agencies, such as the Warehouse Agency, or State agencies.

Mr. FINDLEY. That's my understanding, that certainly the producer would have no impairment of his protection up to \$25,000.

Mr. WISHMIRE. He gets his money very quickly, the full amount, except for certain setoffs, where he may owe the elevator company.

Mr. FINDLEY. How long do you anticipate it would be between a bankruptcy, or a failure, and the settlement of claims by producers? Some of the settlements under bonding provisions are long, drawn out, and agonizing affairs. I hope that you would expect a very prompt settlement, as under the FDIC.

Mr. WISHMIRE. Yes, by regulation the time for settlement would be stated, and it would be a very short period of time. We don't intend to wait under this legislation until there has been a recovery from other funds that would be available.

The producer would receive his payment almost immediately, within a short period of time; such as the FDIC does now.

Mr. FINDLEY. Section 6(b) requires the insured producer to have continuous title to the grain.

Mr. WISHMIRE. Yes.

Mr. FINDLEY. The subsequent subsection discusses the price of grain when sold as a part of liability under the act up to a \$25,000 limit.

Is the sale a break in this continuous legal title? Should section 6(b) be amended to insert after the words "insured grain" the phrase "or the proceeds thereof"; would that be a desirable change?

Mr. WISHMIRE. How would that read then, Congressman?

Mr. BERGLAND. Page 10?

Mr. FINDLEY. On page 10, section 6(b), after the words, "insured grain" add the words "or the proceeds thereof". The reason I mention this is that there may be some question as to the continuous legal title of the grain, unless those words are added. Maybe the problem doesn't really exist?

Mr. OIEN. I think we have had questions as to where does the insurance stop; and in our short statement it has been, well, it is the first transaction that the insured—the first transaction between the buyer and the farmer. It may be that you have a very good point there.

Mr. FINDLEY. I don't see any harm in adding the words. Do you see any complication that would arise from adding the words, "or the proceeds thereof"?

Mr. WISHMIRE. I really don't see the point of it; but I don't see it does any harm.

Mr. FINDLEY. Mr. Chairman, it may be the witnesses have in mind a further presentation. I do have some other questions, but if they do have in mind a further presentation, I will hold my questions.

Mr. BERGLAND. Do you have more testimony to provide to this subcommittee this morning?

Mr. OIEN. Yes, we do; we have considerably more information we would like to give you on the various sections of the bill.

Mr. BERGLAND. Perhaps we best proceed with your testimony, and then we can question you on points you may raise later.

Mr. OIEN. Very good. Mr. Wishmire is going to comment briefly on the purpose (section 2 of the act).

Mr. WISHMIRE. Much of what we are about to say has really been covered in questions that you have asked, there were some very good questions this morning; but, if you don't mind, we will run through what we have prepared.

Mr. BERGLAND. Would you proceed, please.

Mr. WISHMIRE. I am talking about section 2, the purpose of the act.

Concern has been expressed for the producer's plight when he does not receive monetary return for his grain crops. This can be appreciated.

The Nation's grain markets are highly complicated mechanisms of selling, storing and buying transactions, including hedging in the futures markets; forward purchases and sales; deferred payments; weight and grade determinations; quality and quantity losses, and many other facets.

Many procedures give little consideration to the financial risk involved in placing their property in the hands of others for storage and future sale, or immediate sale without payment. Proximity, price and acquaintance with the buyer or storer seem to be their main concern.

But, there have been grain storers and buyers that have gone out of business with losses to both procedures and trade creditors. We would believe major losses to producers have involved the sale of grain, rather than the storage of grain. Stored grain has been fairly well protected where stored with warehousemen licensed under Federal law—that's the U.S. Warehouse Act—and adequate State laws. Most of the major grain-producing States have such laws. However, there is no Federal law, and few State laws offering any kind of protection for producers' sale grain.

This bill proposes to protect producers' incomes by insuring payment for grain deposited for storage and/or sale up to a limit of \$25,000 for any one producer at any one elevator at any one time.

Thank you.

Mr. BERGLAND. Thank you, Mr. Wishmire.

Do I clearly understand now as you interpret this bill in the event a producer had grain in storage and subsequently sold that grain, but the check bounced, this insurance policy would cover that no-good check?

Mr. WISHMIRE. If he sold that to a member.

Mr. BERGLAND. A member elevator?

Mr. WISHMIRE. Yes.

Mr. BERGLAND. Thank you, Mr. Wishmire. Mr. Findley?

Mr. FINDLEY. I have no questions.

Mr. OIEN. If we can go on, I would like to comment a little bit on the creation of the Corporation, as we see it.

The Corporation would be created as a Federal Corporation under Government Corporation Control Act, which permits such organizations. The headquarters and principal place of business would be Washington, D.C., but the actual program administration could be carried out at a location other than the headquarters at the discretion of the Secretary of Agriculture.

The United States of America through the Secretary of the Treasury would subscribe to the \$50 million in authorized capital stock. This \$50 million would be used as a drawing account for the payment of insurance benefits. The Corporation would pay no interest on this \$50 million. In addition, the Corporation would have authority to borrow up to an additional \$200 million from the Treasury for payment of insurance claims should the need arise. The Corporation would have to pay interest on any money borrowed. And here we would presume it would be the interest rate that the Treasury has to pay to borrow money.

As the law is presently written, it does not appear to provide for borrowing money for administrative expenses, as Mr. Findley pointed out. It would seem that unforeseen circumstances would require that the Corporation have such authority.

The management of the Corporation will be carried out by a board of five directors under the general supervision of the Secretary of Agriculture. While the Secretary of Agriculture would not be a member of the Board, he would, in effect, have veto power over their actions. The Board would consist of three people employed by the U.S. Department of Agriculture and two people not so employed. The non-Government members would consist of an executive with a grain firm, grain trade association, university, or Board of Trade, and an executive from a multiple-line insurance company, insurance trade association or university. The office and term of office would be arranged to prevent a complete turnover of the Board at the same time.

The Board's function would include:

Keeping the Corporation solvent over and above the \$50 million in stock.

Adopting rules and regulations for administration of the program. Setting fees to maintain insurance fund and provide for administrative costs.

Mr. FINDLEY. Mr. Chairman?

Mr. BERGLAND. Mr. Findley.

Mr. FINDLEY. A question was asked by Mr. Price a few minutes ago, and the response he received may have left the impression that the initial capital of \$50 million would carry interest which would have

to be paid, and could be refunded in time as the premium receipts of the Corporation would make this possible.

This is not the intent of the act as I see it, and I think the record ought to be clarified. It is my belief that the \$50 million in capital would not carry interest, the Corporation would not have to pay interest on the \$50 million, nor have any obligation to repay that \$50 million to the U.S. Treasury. It would be quite different from the operation from the farm credit institutions in that respect; am I correct in that interpretation?

Mr. OIEN. It was our thinking on that—the truth is, there would be no interest paid on the \$50 million because it is stock, Treasury-subscribed stock; but that through the assessment of the members this \$50 million would pretty much remain intact.

Mr. FINDLEY. Yes, that is my understanding, too.

In the membership of the Board of Directors of the Corporation, there is no member identified to represent producers. That is an addition that I think would be beneficial. Would you see any objection to that?

Mr. OIEN. No, we think that would be fine, if some producer group was represented.

Mr. FINDLEY. Thank you.

Mr. BERGLAND. Thank you, Mr. Findley.

I have two questions. I am from Minnesota, and in our State we have a rather well-organized State bonding law. I am not aware of any instance in which a producer had a warehouse receipt and found himself defrauded as a result of a bankruptcy, or I should say found himself losing as a result of a bankruptcy.

But, there have been reported instances when the checks issued for the sale of grain have not been negotiable. You state, and correctly, that the bill would cover both instances.

In a State like mine, where there is no real need for a Federal insurance program on stored grains, but there is a need for some insurance to cover checks that are issued against accounts that do not have the sufficient balance to cover it, would it be possible that two fees be established; would it be possible that a member elevator could subscribe to that portion of the program that would insure sufficient funding and cover checks issued, at a reduced rate?

Mr. OIEN. I would suppose it's possible. I don't think it has really been explored.

Mr. BERGLAND. And my last question has to do with the first paragraph of your statement, Mr. Oien, in which you clearly point out the views you present here this morning are your own, and those of your colleagues, and not necessarily those of the administration.

You stated that the administration is presently reviewing this proposition, and will soon submit a formal report. Do you have any idea when that report may be expected?

Mr. OIEN. I really couldn't say, Mr. Bergland. We will do whatever we need to do when they ask us to do it, we will get it done promptly; but I really can't speak for the administration.

Mr. BERGLAND. That's all I have. Mr. Findley?

Mr. FINDLEY. In the operation of the bonding protection for farmers, where a failure does occur and the bonding features become operative, how often are losses by producers covered 100 percent?

Mr. HODGES. Again, I don't think we have any statistics on that. I think if there is a warehouse receipt out, I think quite often they are covered 100 percent.

Harry, would you want to comment further?

I think, again, where there are checks involved, there are losses in that area.

Mr. FINDLEY. The warehouse receipt gives a 100 percent first claim against proceeds of a bond?

Mr. WISHMIRE. That would depend upon the State law. In most cases it would be a pro rata share of what grain was there; and it would be based not only upon warehouse receipts, but other documents of title that might be in existence, such as the scale ticket, which clearly indicates there is a storage obligation.

There are a few States where the law has been interpreted as being only a warehouse receipts law; and that only the warehouse receipts are protected.

Mr. FINDLEY. Mr. Wishmire, you have had very broad, and long-term experience with the U.S. Warehouse Act, and have been an observer of the bonding provisions and the State laws. When a failure has occurred in the past, has it been your observation that producer losses have been fully covered?

Mr. WISHMIRE. Under the Warehouse Act—I'll divide the question. Under the Warehouse Act in very few instances were they not? I couldn't say off-hand any one where warehouse receipts were not settled.

Mr. FINDLEY. Under Federal law?

Mr. WISHMIRE. That's right, under Federal law. Under State laws there have been cases, they are not settled 100 percent.

Mr. FINDLEY. Can you give us an example of settlements that have been substantially below 100 percent?

Mr. WISHMIRE. I'm afraid I cannot. This is an error, the records should have been kept over the years, and as you found out in your own inquiry, we don't have those records; they were never kept. The States did not keep them. I am sure we could go into the files, but really have a record you could lay out, there isn't any such record. I'm afraid to make a statement, I'm not hedging.

Mr. FINDLEY. Thank you.

Mr. BERGLAND. I want to thank you very much, gentlemen, for coming this morning. The subcommittee will stand adjourned, subject to—

Mr. FINDLEY. Mr. Chairman?

Mr. BERGLAND. I think they have other testimony, if the Chair would permit them, as to the estimated costs of the program; am I correct? Have you completed your testimony?

Mr. OIEN. We do have some more information that we could provide for the benefit of all interested parties to get into the record, if this is so desired.

Mr. FINDLEY. I think it is desirable, Mr. Chairman.

Mr. BERGLAND. By all means, gentlemen; are you prepared to produce this testimony this morning?

Mr. OIEN. Yes, I believe we are.

Mr. BERGLAND. Would you proceed, sir?

Mr. OIEN. We next would like to comment a little bit on section 5 of the act, the administration. And here, as we see it, the Secretary of Agriculture would make the designation as to who within the Department should be responsible for transacting the business of the Corporation. It would seem that at least at the outset only a modest staff would be needed.

Upon passage of the act, priority attention would have to be given to identifying and adopting rules of operation for the Corporation and promulgating regulations to implement the requirements and procedures for issuance of membership certificates.

Early attention would have to be given to examination and audit procedures and training of people in these procedures. Attorneys and accountants would be necessary for setting up and clearing rules and regulations and other technical people would be necessary for this aspect as well as for setting up exam procedures and training of examiners and/or auditors.

That is the end of my comment on the administration of the bill.

Mr. FINDLEY. Mr. Chairman, could I ask a question about section 4?

Mr. BERGLAND. Sure.

Mr. FINDLEY. I overlooked that question. The language in section 4(e) (1) provides for the appointment to the Board of two persons experienced in grain and insurance business. Does this mean one person experienced in grain, and one in insurance; or would it contemplate that each of the two must be experienced in both?

Mr. OIEN. It is our interpretation that it would be one each.

Mr. FINDLEY. Thank you, Mr. Chairman.

Mr. BERGLAND. Thank you, Mr. Findley.

Mr. OIEN. If we could go on, I would like to have Mr. Wishmire comment on insurance benefits.

Mr. WISHMIRE. Subject to limitations the Corporation is authorized to insure producers dealing with a member against loss due to the failure of a member to make proper payment for the producer's grain.

A producer is defined as a landowner, landlord, or tenant involved in originating the grain.

A member is any party approved for membership by the Secretary.

And grain is defined as all products commonly classed as grain and such other agricultural products merchandised at or stored in a member's facilities.

The only accounts that would be insured would be those transactions where a producer either stores his grain in a member's warehouse, or sells grain to the member either for cash, or through a contractual arrangement.

In order to be covered by insurance, a producer must have originated the grain and retained continuous legal title from the time of harvest to the time he sells the grain. It is the initial sale that would be insured. In the case of storage, the grain would be insured as long as it remained in a storage category, or until sold from storage by the producer to a member and proper payment made.

Stored grain pledged by a producer as collateral for a loan from a bank or under the CCC support program, would be insured. However, if the bank or CCC foreclosed on the loan, they would not be protected.

The act contains provisions for determining the insured price and quantity and means of filing claim therefor in the case of nonpayment.

As indicated in the discussion of purpose, insurance payments would be limited to \$25,000 for any one producer with any one member.

Mr. FINDLEY. Mr. Chairman?

Mr. BERGLAND. Mr. Findley.

Mr. FINDLEY. Mr. Wishmire, the language there, I believe, is broad enough to cover insurance of cotton, providing the merchant handling the cotton also is a grain dealer; am I correct?

Mr. WISHMIRE. Well, I wouldn't interpret it that way, Mr. Findley, but it is possible that it could be.

Mr. FINDLEY. It says, other categories.

Mr. WISHMIRE. And other agricultural commodities—I think it says "in the elevators," the specific text there.

Mr. OIEN. If I might just comment on the cotton, which was raised earlier. The cotton merchandising system is somewhat different than the grain. In the grain industry, the warehouseman is usually a grain dealer, he is a buyer, too; and in the cotton industry this is not prevalent, those people are in the warehouse business. Most of them do not buy cotton themselves, they merely store the cotton. The buyer of the cotton does not, ordinarily, have a warehouse.

Mr. FINDLEY. Warehouses are quite often owned by cooperatives in cotton, am I correct there?

Mr. OIEN. Yes, and in those cases where a cooperative does have a warehouse, they probably are buying cotton, too.

Mr. FINDLEY. Thank you.

Mr. BERGLAND. Thank you, Mr. Findley. Gentlemen, you may proceed as you wish.

Mr. OIEN. I would like to have Mr. Hodges comment on eligibility requirements.

Mr. HODGES. The law requires a member to be legally in the business of buying and/or storing grain, and have suitable facilities for receiving and handling grain. Since the insurance can only take effect upon physically turning the grain over to a member, the member must have the facilities to accept the grain. As we see it, this does not preclude a member from sending a truck to a farm to pick up grain for deposit in his elevator, but it would preclude an itinerant trucker from membership.

Financial requirements would be set at a reasonable amount so as to afford virtually all farmers access to a member warehouse.

The manager of the member firm shall be reputable, experienced and competent and would be asked to furnish a statement of pertinent information relating to his past experience.

The member would be asked to furnish a modest surety bond to protect the producer in storing and selling transactions with the member. However, as we see it, under this type of law there is no real need to require a surety bond unless there is a deficiency in meeting financial requirements. One of the reasons for having the bond requirement is to make those grain dealers and storers not presently regulated subject to somewhat the same bonding requirements as those dealers and storers that are now subject to grain dealer and/or warehouse law.

It is also true the bond would be a source of recovery for losses paid out of the grain fund. On the other hand, under this concept it seems to us the grain fund should be adequate. The major producing States have laws that cover stored grains, and this bill would offer additional

protection for the producer for unsettled accounts. The member would be asked to furnish a fidelity bond to cover the manager and his employees. Members would be required to keep current records of all activities. They would be asked to observe sound warehousing and merchandising practices, be licensed, if required by the State, and observe all requirements under any license to store or buy grain.

I might also comment on eligibility requirements. The law requires a member to be legally in the business—I'm sorry.

On examination requirements. A firm applying for membership in the Corporation would be expected to make available certain documents such as articles of incorporation, bylaws, financial statements, partnership agreements, and leases. Some warehousemen have already furnished this information to the Department and would probably not be asked to furnish the same information again.

It is anticipated that a comprehensive examination procedure would be developed. The procedure would call for verification through measurement and sampling of the quality and quantity of grain on hand. It would call for audit of weight certificates and shipping records of all grain received and shipped; and verification of ultimate disposition of the grain deposited through audit of warehouse receipts, open storage accounts, purchase contracts and canceled checks.

The examination might also include a detailed review of grain account payables, analyses of long and short position, review of hedging transactions, and general compliance with the act and regulations. Subsequent to issuance of the certificate, examinations should be performed at least twice each year.

At the present time most grain warehousemen are subject to examination by State or Federal employees to determine whether they are fulfilling their obligations as a warehouseman in storing grain for others. It seems logical that an examination procedure under this bill could be worked out with each agency, to include the examination requirements of the bill. Most agencies now have examination procedures covering grain accounts, but the examinations would need to be expanded to include an audit of dollar obligation for grain purchased.

Mr. FINDLEY. Mr. Chairman?

Mr. BERGLAND. Mr. Findley.

Mr. FINDLEY. I'm not sure I heard you completely. I believe you are discussing the relations of the Corporation with a State agency; am I correct?

Mr. HODGES. That's correct.

Mr. FINDLEY. And am I correct that you feel it is likely that an arrangement could be worked out with the State agency, whereby modest changes in their procedures would be adequate to satisfy the examination requirements here?

Mr. HODGES. Yes, that's correct. Under the present arrangement, there are certain States now where there is a cooperation between Federal and State in terms of performing examinations under the Commodity Credit Corporation programs.

Mr. FINDLEY. And the Federal Warehouse Act provides for examinations. Would it be fair to say that these requirements under this act could be satisfied by the same type of inspection and examination that is now being carried out under the Federal act?

Mr. HODGES. We feel there would have to be some modifications and expansions.

Mr. FINDLEY. Thank you.

Mr. BERGLAND. Would the gentleman yield on this point? In the instance where a warehouse has in its place of business grain that is owned by the Commodity Credit Corporation, CCC does from time to time audit that inventory?

Mr. HODGES. That is correct.

Mr. BERGLAND. Would you expect that that agent, performing that particular function could at the same time conduct the examination required by this act?

Mr. HODGES. This is contemplated.

Mr. BERGLAND. So that the warehousemen would not be plagued by inspectors who would be descending on his place, each of whom would have a narrow field of interest.

Mr. HODGES. That is correct.

Mr. BERGLAND. Thank you.

Mr. FINDLEY. Mr. Chairman?

Mr. BERGLAND. Yes.

Mr. FINDLEY. On that point, I have had some concern expressed by elevator operators that if this becomes law, and they become members of the Corporation, their operations will be opened to sudden inspection by hordes of Federal agents who will feel free to descend on them any moment of any day, and cause a great deal of inconvenience and trouble for them.

Would you expect that the frequency and intensity of examinations would be any greater than it has been under the administration of the Federal Warehouse Act?

Mr. HODGES. No, we would not.

Mr. FINDLEY. In fact, the examination standards and practices that you contemplate here would be quite similar to those of the Federal Warehouse Act?

Mr. OIEN. We would have to go a little further, we would have to get into merchandising transactions; but the frequency would remain the same. The examination itself would be a little bit extended.

Mr. WISHMIRE. Right now we are working under the "bushel's obligation," under this we would not only have the bushel's obligation, but also the dollar's obligation.

Mr. FINDLEY. Thank you.

Mr. WISHMIRE. But the same person would do it, and there would not be another bunch of Federal employees or State employees coming in to make the examination.

Mr. FINDLEY. Frankly, the impression I have of the administration of the Federal Warehouse Act is very favorable, and I can't recall ever hearing any criticism of the administration of that act.

The comments you have just made will go a long way toward reassuring the industry about the proper administration of this program.

Mr. HODGES. I might comment further upon the cooperation with the States. At the present time, under the Commodity Credit Corporation arrangement, there are six States performing examinations under the agreement for the Department; and four States where the Department is directing the examinations for the State. For example, under the present agreement with Kansas, which was executed in 1955, the

State performs the examinations of warehouses approved under the uniform grain storage agreement to confirm continued compliance with the approval standards. Serious violations found by the examiner are reported to the Department by telephone. A copy of the report is mailed to the Department and the State is reimbursed for part of the costs.

In addition to Kansas, the States of Nebraska, Wyoming, Idaho, Oregon and Washington have this type of agreement. In the other type of agreement the State assigns warehouse examiners to the Department to work with the Federal examiners in performing examinations of warehouses approved under the uniform grain storage agreement, and licensed by the State. The States of Illinois, Missouri, Iowa and Minnesota have this type of agreement. In either type of agreement there is some uniformity in the type of examinations that are being followed because uniform procedures have been issued by the Department which has improved the examination procedures. We feel this type of agreement can be extended to include the requirements under this bill; and presently the frequency of examinations, for example, in Minnesota, is about two examinations per year.

Mr. BERGLAND. Thank you, gentlemen. You may proceed with the next issue, which I think is fees.

Mr. WISHMIRE. What can be said and will be said on this subject is strictly conjecture, yet it is one of most interest to the grain industry and producers.

It is comparatively easy to forecast probability of membership application fees such as:

The fee for the certificate of membership probably would be established at about \$100—a one-time charge—for a storer of grain. If the bin measurements of the facility have not been previously established by Federal or State examiners an inspection fee would be required at about \$6 per 10,000 bushels capacity, minimum \$40 and maximum \$1,000. These are present fees, in effect under the U.S. Warehouse Act.

If the applicant does not have an unqualified audit report certified by a CPA, an additional fee of \$200 would be assessed, such fee would be less if an audit is available.

Consideration could be given to waiving inspection fees for the first three years of life of the act as an added inducement to apply for membership, seeking to build a membership so that the fees could eventually be reduced in assessment.

It is equally difficult to consider a proper assessment for the cost of insurance and direct administration of the act.

After the first 5 years of the act, the bill becomes self-supporting, so the yearly assessment should be enough to cover losses sustained and administrative costs. Mr. Findley in introducing this bill estimated the producer would be assessed one-tenth of 1 percent of the dollar value of grain sold or stored with a member; Mr. Oien commented that that would be about one-half cent per bushel on \$5 beans, and about a tenth percent, for example, on \$1 oats. At present prices such an assessment would yield about \$2.8 million annually per each 1,000 members.

Such a rate could be used immediately and a better determination, up or down, made once the act has a history.

It is estimated that there are about 10,000 firms eligible for membership. The total value of grain available for sale, basis October 5 prices, is estimated at about \$28 billion or about \$2.8 million per eligible member—thus the average assessment would be \$2,800 per member.

If this were levied against the producer, as we believe those benefiting from the legislation should bear the greater burden of cost, it would amount to but \$5 for each \$5,000 of grain sold.

Today there are no reliable figures on losses sustained in this field. It would appear losses could be minimized through high membership standards and a comprehensive examination program.

The unit cost of the program will be in direct proportion to losses sustained and in indirect proportion to the number of members participating.

Mr. BERGLAND. Mr. Findley?

Mr. FINDLEY. Mr. Wishmire, you came up with an average fee of \$2,800 per member.

Mr. WISHMIRE. Yes.

Mr. FINDLEY. Now, could you state the size of such an average member? What kind of operation would he have?

Mr. WISHMIRE. He would be doing, what, \$2.8 million worth of business a year, on that basis; you would have to go up or down from that.

Mr. FINDLEY. And it's quite possible that the experience gained by the operation of the program could eventually reduce that annual cost?

Mr. WISHMIRE. Yes, and the number of members; the more members you have, the cost would go down.

Mr. FINDLEY. In my introductory comments I suggested in response to one question that financial institutions servicing elevators and warehouses might well make this program universal, even though it is entirely voluntary. Would you agree with that assessment?

Mr. WISHMIRE. I believe that once this program is in effect, and has a little history, it is going to be difficult to find farmers that will not trade with this firm that has signed up as a member in this organization.

I believe that it would be one of the selling propositions, it will grow of its own will. It's not anything that we would sell, or anybody would sell, the farmer will sell himself, and by so doing will make the grain elevator operator become a member.

Mr. FINDLEY. And when membership becomes comprehensive, what would be your estimate of the annual membership cost in that event?

Mr. WISHMIRE. Well, if you get 10,000 members, you will be bringing in—let's see—

Mr. OIEN. \$28 million.

Mr. WISHMIRE [continuing]. \$28 million, which would be far in excess of what is needed to administer the act and pay the assessment.

Mr. FINDLEY. Could you be more specific as to how much more this would yield than you would expect would be required?

Mr. WISHMIRE. I think we are going to get into the cost of the administration in another second, and this may answer your question.

Mr. FINDLEY. There is authority under the act to assess a charge for examinations. Is that included in your estimate of \$2,800 per year?

Mr. WISHMIRE. We did not consider that.

Mr. FINDLEY. What is your estimate as to the charge that an average merchant might expect?

Mr. WISHMIRE. Well, let us say the cost, which Mr. Oien will cover a little bit later, it might run \$500 per examination; but I don't believe we have any vision on passing that back to the grain elevator, is that right, Mr. Oien?

Mr. OIEN. Well—

Mr. WISHMIRE. That would be part of the assessment.

Mr. OIEN [continuing]. The one-tenth of 1 percent of the dollar value, we feel eventually, if you have the adequate membership, should cover both the administration and the insurance; and at that point, down the road, possibly that could be reduced.

Mr. FINDLEY. So, members should not expect to have expenses under this membership beyond the one-tenth of 1 percent of the value of grain.

Mr. WISHMIRE. And some minor fees for the certificate of membership.

Mr. OIEN. Except, as Mr. Wishmire points out, when they initially apply for membership, there is a lot of work involved in getting the measurements.

Mr. FINDLEY. Mr. Wishmire, could you estimate how much more a warehouse which is now in the Federal Warehouse Act would pay if that warehouse were under the insurance program, as contrasted to the cost he now has? In other words, how much add-on?

Mr. WISHMIRE. It would be one-tenth of 1 percent.

Mr. FINDLEY. Thank you.

Mr. OIEN. I wonder if I might comment on the question Mr. Findley raised about the bankers. Although the banks are not covered by insurance, nor are the grain companies, it certainly seems that type of examination and audit that would be necessary and business firms, and even other creditors that deal with this firm because we would be looking at the financial well-being of this operation.

Mr. FINDLEY. This act would enhance the financial standing of the members; that would be almost certain to occur, would you not say?

Mr. OIEN. I would think so, and the types of audits to be performed would certainly be of benefit to people who deal with this firm.

Mr. FINDLEY. Thank you.

Mr. BERGLAND. At present day prices it is not at all uncommon for a country elevator to do \$5 million worth of cash grain business a year; that would mean that elevator would have to place a deposit with the company in the amount of \$5,000 to gain admission to this program; is that correct?

Mr. WISHMIRE. No, he doesn't make the deposit—well, of course, Mr. Findley in his opening remarks, he said he feels that the grain trade will pay this, rather than passing it back to the producer. I don't think there is anything in the act that says who must pay this.

But, to answer your question about the \$5,000, it would not be an immediate payment, it would be a payment as collected. This has to be worked out, of course, how to collect this fee.

Mr. BERGLAND. As collected by the—

Mr. WISHMIRE. It could be like a sales tax—I hate to use that word—it could be like a sales tax. The grain merchant makes up a

grain settlement sheet, at the bottom of that is what he passes on to the producer; he gets to add on to this one-tenth of 1 percent for the insurance.

Mr. BERGLAND [continuing]. Today soybeans are worth over \$5 a bushel, and as recently as 2 years ago they were worth less than \$3. Were we to attach a price to the value of grain, we would have a variance in the premiums collected from year to year because of the change in the value. Would this cause any administrative problem, as far as you can see?

Mr. WISHMIRE. No because the next year the premium would be lower. There is a provision in the act that the premium will be reviewed each year; maybe next year there will be no premium at all.

Mr. FINDLEY. Mr. Chairman?

Mr. BERGLAND. Yes.

Mr. FINDLEY. Maybe I should try to clarify my expectations of the administration of this act. The cost of the insurance would be a part of the cost of doing business the merchants would bear. Although it's a little bit hard to follow each cost item all the way through a merchandising transaction, I would expect that ultimately it would be passed on, substantially to the producer. I didn't want to leave an impression to the contrary.

Mr. BERGLAND. But, would the initial fee of the 5-million-bushel elevator be a \$5 million value?

Mr. OIEN. If you have a member—you presume he is already a member?

Mr. BERGLAND. No, he is not a member. He is a country elevator in the State of Illinois who does \$5 million in business.

Mr. OIEN. If this elevator in Illinois is not presently licensed under the U.S. Warehouse Act, or the State of Illinois Warehouse Act; and the Corporation had to go out there and physically establish the bin dimensions, et cetera, the proposal that we have here, the maximum inspection fee would be \$1,000. For the grain buyer's aspect of it, it would be \$200, maximum. The actual issuance of the certificate would be \$100.

So, conceivably it could cost \$1,300 for membership in the Corporation. Now, from there on, if during the course of this year this member does \$5 million worth of business, it would cost him—he would be assessed \$5,000 to be distributed among the administrative and insurance costs.

Mr. BERGLAND. Thank you.

Mr. FINDLEY. Mr. Chairman?

Mr. BERGLAND. Yes.

Mr. FINDLEY. Mr. Wishmire, in your response to my question about the comparative cost to a merchant now under the Federal Warehouse Act, and the extra cost that might be entailed if that merchant would also become covered by this insurance act, you indicated the difference would be one-tenth of 1 percent of the value of grain covered.

Would there not be some savings, perhaps not of great magnitude, but nevertheless savings because the inspections required for both purposes would overlap substantially? As I understand Mr. Oien's earlier response, there would be a great similarity in the intensity and frequency of inspections, and the only difference would be that certain additional items would be covered by the inspection.

Would there be some savings because of the overlap?

Mr. WISHMIRE. There is currently no charge for the continuing inspections.

Mr. FINDLEY. That is borne by the—

Mr. WISHMIRE. Government.

Mr. FINDLEY. I see.

Mr. WISHMIRE. I did omit the fact that the Federal warehouseman would have to pay the certificate of membership fee of \$100, and the \$200 fee for the dealers certificate license, if he didn't have that; that would be the original cost.

Mr. FINDLEY. Is it the view of you gentlemen that membership in this Corporation would be entirely voluntary; there is no question on that point, is there?

Mr. OIEN. Yes, that is our view.

Mr. BERGLAND. Thank you, Mr. Findley. Would you proceed with the three items remaining on your agenda?

Mr. OIEN. Actually we have four, we skipped one that I would just like to go in briefly; it concerns termination of membership.

A member may at any time terminate his status as an insured member by giving notice in writing. By regulation there would need to be a certain timed notice to make this effective and within that time period arrangements satisfactory to the Secretary made for continued protection of all accounts insured at time of such termination.

A certificate of membership may be suspended or revoked by the Secretary for violation of the law or regulations. The right of hearing in such cases would be available.

Now Mr. Wishmire will comment on insolvency.

Mr. WISHMIRE. The act provides that the Corporation under certain conditions would be appointed receiver. It works this way.

After being alerted by examination that obligations of a member are in jeopardy a special audit would be made. If the audit discloses insolvency, the Corporation would be appointed receiver.

The bill does not provide for any of the rights, or authorities of the receiver, and perhaps it should. In some cases not involving insolvency, but where conditions indicate that the member is in serious trouble, authority to appoint a conservator to preserve the assets and meet outstanding obligations could be considered; and when the conditions improve, the business continues.

Mr. OIEN. I would like to comment briefly on the criminal penalties of the section.

The act provides penalties for a number of actions, for example, advertising or simulated advertising that an elevator is a member, but in fact is not.

Conversion of assets for personal gain.

Producer falsely certifying ownership of grain already sold to a third party in order to secure payment as insured grain.

False entries on the elevator records to conceal wrongdoing.

Member shipping grain belonging to others for his own account.

As presently written, it appears that violators under this section be convicted in a court of competent jurisdiction before fines are levied. We might suggest that the possibility of levying of administrative, or civil penalties be considered for lesser violations of the act.

I would also like to comment briefly on the appropriation and regulations section.

Mr. FINDLEY. Mr. Oien, would you suggest that for these lesser violations the Secretary, rather than a court, be given authority?

Mr. OIEN. We think it should be explored.

Mr. FINDLEY. I see. Thank you.

Mr. OIEN. On the appropriations and regulations. Appropriations as specified in the act for the first 5 years are limited to \$5 million per year. There would have to be an appropriation to cover the period between the enactment of the law and the effective date of the act, which should be at least 9 months.

This appropriation would cover personnel necessary to set up the Corporation, write regulations, install training programs for present examination personnel, develop examination procedures, hire new examiner personnel, and generally implement the act. We would estimate this at about \$750,000.

Thereafter, depending on the number of applications processed and approved, we would estimate the examination cost at about \$1,000 per member. If all eligible members were included, the total cost would run about \$10 million.

Considerable savings could be made through cooperation with State and Federal agencies now having the responsibilities associated with grain elevators.

The type of regulations needed to implement this act we have covered in our earlier comments, I believe.

Mr. BERGLAND. Thank you, Mr. Oien. Mr. Findley?

Mr. FINDLEY. I just have one final question. First of all, I want to extend my deep appreciation to those gentlemen for being here today to examine thoroughly this concept. Finally, I would ask each of you to respond to this question. What would be the competitive advantage for an elevator, or warehouse in having this insurance, as contrasted with his position in the business community if he did not?

Mr. OIEN. Well, I think in an area where there has been an elevator that failed, and the farmers were hurt, there would be no question that he would have the competitive advantage.

Mr. FINDLEY. Would the advantage be substantial?

Mr. OIEN. I would think so.

Mr. FINDLEY. Mr. Wishmire, would you respond?

Mr. WISHMIRE. I would agree with what Mr. Oien just said.

Mr. FINDLEY. Mr. Hodges, do you have any comments to that?

Mr. HODGES. Not really, I think it would have some bearing on the number of elevators in the particular area, the longstanding of those elevators, their experience dealing with local farmers; I certainly would agree with what Mr. Oien has said.

If there have been some losses, farmers become very familiar with those.

Mr. FINDLEY. Thank you very much.

Mr. BERGLAND. Thank you.

Mr. Oien, on the section that deals with insolvency, you indicated you felt there should be some change in the wording, of the act, to clarify a legal point, having to do with the appointment of a receiver, and over bankruptcy action. Are you prepared to submit such technical changes you think are appropriate?

Mr. OIEN. I don't think we would be at this time, we want to wait until the Department takes a position to make those comments, I believe.

Mr. BERGLAND. All right.

Gentlemen, we want to thank you for coming here today, you have come well prepared, and you have been a great help to this subcommittee.

The committee will stand adjourned subject to the call of the Chair, at which time we will receive testimony from public witnesses.

Thank you again for coming.

[Whereupon, at 11:40 a.m. the committee was adjourned, subject to the call of the Chair.]

