



**STATE OF MISSISSIPPI
DEPARTMENT OF AGRICULTURE AND COMMERCE**

ANDY GIPSON
COMMISSIONER

QUESTIONS & ANSWERS

MISSISSIPPI GRAIN INDEMNITY TASK FORCE PROPOSED LEGISLATION

1. Why did the Commissioner of Agriculture and Commerce establish the Grain Indemnity Task Force?

The recently filed bankruptcy of a grain elevator in the Delta has left many producers with claims against the bankrupt company, which is also under investigation for potentially fraudulent activities. In reviewing this situation, as well as reviewing how other states have attempted to assist producers when grain warehouses or dealers fail, the Commissioner determined that changes are needed. Mississippi agriculture is well represented by organizations such as Mississippi Farm Bureau and Delta Council as well as by individual producers who have devoted efforts in the past to promote the interests of their fellow Mississippi producers. Accordingly, the Commissioner called upon these organizations and producers to assist in developing a contemporary farmer-driven approach to finding solutions for farmers when such a failure of a grain buyer may occur in the future.

2. What is the purpose of the indemnity fund recommended by the Task Force?

The indemnity fund would compensate producers for losses when a grain warehouse or grain dealer fails to live up to its obligations, namely the protection of grain that is stored by a warehouse and/or the failure to pay for grain purchased by the warehouse or dealer.

3. Would producers required to participate in the program?

No. The program would be purely voluntary. Producers would automatically be enrolled in the program for every crop year unless they notify, by June 1 each year, that they have opted out of the program for the current crop year. If they want to opt out the next crop year, they would have to opt out by the following June 1.

4. Which commodities would be covered by the fund?

Corn (but not corn for human consumption like sweet corn and popcorn), grain sorghum, oats, soybeans, and wheat.

5. Why didn't the Task Force recommend that cotton and rice be covered by the fund?

The farm organization representatives and individual producers, after contacting numerous Mississippi producers, concluded that the majority of the producers of these commodities did not see a need for a fund as their marketing and storage arrangements were different than for the other grain commodities.

6. Would Mississippi taxpayer funds used to make payments to producers?

No. No taxpayer funds will be used to pay producers for losses under this program.

7. How much money would be in the fund?

The fund would be established with a goal of \$20 million, with a minimum floor of \$18 million.

8. Where would the money to establish the fund come from?

To reach the \$20 million amount, producers would pay an assessment of two-tenths of one percent (0.2 percent) of the value of corn, grain sorghum, oats, soybeans, and wheat sold during the assessment period. The assessment period would be from July 1 to June 30 and whenever the amount in the fund was less than \$18 million, assessments would be in place. If assessments are in effect, assessments would be collected during the entire assessment period even if the \$20 million amount was obtained part way through the assessment period.

9. How would the assessments be collected?

The assessments would be collected in the same manner assessments are already collected from elevators and purchasers for various grain promotion programs, all of which are already administered through the Mississippi Department of Agriculture and Commerce. As a result, no new staffing or administrative processes would need to be created for this legislation.

10. When would the \$20 million goal be achieved?

Based upon an assessment of .2 percent of the value of eligible grains being sold to State and Federally-licensed grain warehouses and to State-licensed grain dealers, the goal would be met in 2026 if no producers opted out of the program. If the assessments are not collected by Federally-licensed warehouses (which handle approximately 60 percent of Mississippi grain), the goal would be met in 2034.

11. What event would trigger the use of the fund?

The Commissioner would determine if one of the listed statutory events has occurred, principally that a grain warehouse or dealer has become insolvent or has failed to meet its obligations to pay its debts in the ordinary course of business.

12. Who could file a claim if a grain warehouse or grain dealer fails?

Any producer who owned grain that is stored in a State or Federally-licensed warehouse that has failed and is not paid for that grain or otherwise allowed to take possession of the grain could file a claim for this “storage loss”. A Producer who has sold grain to one of these warehouses or to a State-licensed grain dealer would also be eligible to file a claim for “contract losses” if they have not been paid according to the terms of the sales contract.

13. Would only State-licensed warehouse and grain dealer failures be covered?

No, losses incurred due to a failure of a Federally-licensed warehouse would also be covered. This program is not involved in the licensing regimes of the Federal Government or the State of Mississippi. It is an independent, producer funded and administered program similar to the commodity promotion programs authorized by the State of Mississippi for certain agricultural commodities. And, like under these promotion programs, the function of the warehouse and dealers is to simply collect the assessments and remit them to the Commissioner.

14. How would a producer file a claim?

After the Commissioner has announced that a failure has occurred, the Commissioner will issue a legal notice in a paper of general circulation once a week for two consecutive weeks in the county in which the failed warehouse or dealer operates setting forth the name of the entity and how a producer may file a claim. Generally, all that the producer will have to do is file a claim on a form provided by the Commissioner along with supporting documentation such as warehouse receipts, scale tickets or purchase contract.

15. Why doesn't the State of Mississippi require grain dealers, grain warehouses or producers to obtain insurance to cover these types of losses?

While insurance companies, many years ago, expressed an interest in providing coverage, in reviewing the manner in which the Federal Government and other States address grain warehouse and dealer failures, there were no instances in which a traditional insurance policy was available where the policy holder pays a risk-based premium. While some States may refer to an insurance program, those programs operate basically in the same manner as what the Task Force has proposed; assessments are paid by producers or grain warehouses and grain dealers, or both, and a fund is created from which claims are paid.

16. When would the fund become effective?

The fund would be effective for the 2022 crop year if enacted this year.

17. Who would oversee the use of the fund?

The fund would be overseen by a board of seven trustees: the Commissioner, two producers selected by the Mississippi Farm Bureau, two producers selected by the Delta Council and two at-large producers selected by the Commissioner.

18. How would the slow payment and fraud prevention hotline work?

The Commissioner presently has the authority to receive complaints from producers for failure to pay if filed by certified mail within certain periods of time that were established in the 1980's. The proposed statutory changes would modernize the process by authorizing the Commissioner's office to implement a hotline and to provide other ways of real-time communication, such as through the use of the internet, of informing MDAC of slow payment and possible fraudulent activities.

19. Does the Office of the Commissioner of Agriculture and Commerce have other recommendations to provide further protection to Mississippi producers?

The Commissioner's Grain Indemnity Task Force was charged with looking at how an indemnity fund could assist producers in the future when a warehouse or dealer fails. The Commissioner and his office are also looking at other steps that could be taken. Notably, in light of the alleged actions of the principals of a failed grain elevator in the Delta, the Commissioner will be recommending increased statutory penalties be enacted and will communicate these recommendations to the Mississippi Legislature and Governor.