



1 Section 1. NEW SECTION. 335.32 CREATION OF AGRICULTURAL  
2 ENTERPRISE ZONES.

3 1. A county board of supervisors may by ordinance  
4 designate part of the county as being appropriate for  
5 intensive agricultural activities. This part shall be  
6 referred to as an "agricultural enterprise zone." The land  
7 included within this zone is not required to be contiguous.

8 As used in this section, "agricultural activity" means an  
9 activity directly connected to the raising, drying, or storage  
10 of crops, the care or feeding of livestock as defined in  
11 section 267.1, the handling or transportation of crops or  
12 livestock, or the treatment or disposal of wastes resulting  
13 from livestock.

14 2. In a county that has adopted a zoning ordinance, all of  
15 the land located within the county is eligible to be included  
16 in the agricultural enterprise zone, except for land within  
17 the corporate limits of a city or land within a state park or  
18 state preserve.

19 3. In a county that has not adopted a zoning ordinance,  
20 all of the land within the county is eligible to be included  
21 in the agricultural enterprise zone, except for land within  
22 the corporate limits of a city, land within an area over which  
23 a city has exercised its zoning authority as provided under  
24 section 414.23, or land within a state park or state preserve.

25 4. All of the eligible land may be included in an  
26 agricultural enterprise zone, except to the extent that the  
27 board of supervisors excludes eligible land from the  
28 agricultural enterprise zone because the land is, or is  
29 located in close proximity to, one of the following:

- 30 a. Land that is unique, and of scientifically recognized  
31 ecological value.
- 32 b. Towns, residential subdivisions, or other population  
33 centers.
- 34 c. Locations at which a significant number of people  
35 regularly congregate.

1 The determination by the board of supervisors that land is  
2 in close proximity to a location excluded under this section  
3 shall be a legislative determination.

4 5. The board of supervisors shall conduct a public hearing  
5 on the adoption of a proposed ordinance establishing an  
6 agricultural enterprise zone within sixty days after either of  
7 the following:

8 a. The board of supervisors receives a petition requesting  
9 adoption of such an ordinance. The petition shall specify the  
10 proposed boundaries of the agricultural enterprise zone. The  
11 petition must be signed by at least fifty eligible electors of  
12 the county.

13 b. The board of supervisors approves a resolution  
14 indicating its intent to establish an agricultural enterprise  
15 zone.

16 6. The board of supervisors may amend the boundaries of  
17 the agricultural enterprise zone, rezone areas included within  
18 a zone, or eliminate the agricultural enterprise zone. When  
19 establishing an agricultural enterprise zone, rezoning the  
20 land within the zone, or amending its borders, the board of  
21 supervisors shall comply with the notice, hearing, and  
22 adoption requirements provided in section 335.6. When  
23 establishing such a zone, the board of supervisors shall mail  
24 a notice, at least ten days before the public hearing on the  
25 ordinance, to the owners of any eligible parcel of land having  
26 more than two acres which the board is considering excluding  
27 from the agricultural enterprise zone. When amending the  
28 borders of such a zone, or rezoning land within the zone, the  
29 board of supervisors shall mail this notice to the owners of  
30 any parcel of land within the zone having more than two acres  
31 which the board is considering excluding from the agricultural  
32 enterprise zone.

33 7. Upon the creation of an agricultural enterprise zone,  
34 or the amendment of its borders, the board of supervisors  
35 shall cause its description to be filed with the county

1 auditor and placed on record in the office of the county  
2 recorder.

3 Sec. 2. NEW SECTION. 335.33 NUISANCE RESTRICTIONS WITHIN  
4 AGRICULTURAL ENTERPRISE ZONES.

5 1. Subject to the exceptions in subsection 2, an  
6 agricultural activity located in an agricultural enterprise  
7 zone established pursuant to section 335.32 shall not be found  
8 to be a public or private nuisance regardless of the  
9 established date of operation or expansion of the agricultural  
10 activity.

11 2. This section does not apply to any of the following:

12 a. A public or private nuisance which is the result of an  
13 agricultural activity determined to be in violation of a  
14 federal statute or regulation or state statute or rule.

15 b. An action or proceeding arising from injury or damage  
16 to person or property caused by the agricultural activity  
17 before the creation of the agricultural enterprise zone.

18 c. The right of a person to recover damages for injury or  
19 damage sustained by the person because of the pollution or  
20 change in condition of the waters of a stream, the overflowing  
21 of such waters on the person's land, or excessive soil erosion  
22 onto another person's land.

23 3. This section shall apply to an agricultural activity  
24 for fifteen years following the exclusion of land within an  
25 agricultural enterprise zone due to the elimination of the  
26 zone, the rezoning of the land included in the zone by the  
27 county or a city, or the change in the boundaries of the zone.  
28 This section shall apply to an agricultural activity from the  
29 earliest date of either the filing of an application by or on  
30 behalf of the property owner for a local or state permit  
31 authorizing work related to the activity, or the commencement  
32 of construction of any facility related to the activity.

33 4. As used in this section "agricultural activity" means  
34 the same as defined in section 335.32.

35 Sec. 3. NEW SECTION. 427B.8 PROPERTY TAX EXEMPTION FOR

1 QUALIFIED LIVESTOCK FACILITIES.

2 1. As used in this section, unless the context otherwise  
3 requires:

4 a. "Agricultural enterprise zone" means an agricultural  
5 enterprise zone created pursuant to section 335.32.

6 b. "Livestock" means livestock as defined in section  
7 267.1.

8 c. "Livestock facility" means a building, structure, or  
9 addition to an existing building or structure which is  
10 primarily adapted for providing shelter to or feeding of  
11 livestock.

12 2. The board of supervisors creating an agricultural  
13 enterprise zone may, as part of the ordinance creating the  
14 zone, establish a partial exemption from taxation on the  
15 assessed value of a structure which is constructed or improved  
16 as a livestock facility within the agricultural enterprise  
17 zone, if the construction or improvements occur during the  
18 period when the agricultural enterprise zone exists. The  
19 assessed value of the real estate must be increased by at  
20 least ten percent by the construction or improvement. The  
21 exemption is for a period of ten years, beginning in the year  
22 that the construction or improvement is first assessed for  
23 taxation. The amount of the partial exemption is equal to a  
24 percent of the assessed value added by the construction or  
25 improvements, which shall be determined as follows:

26 a. For the first year, one hundred percent.

27 b. For the second year, one hundred percent.

28 c. For the third year, one hundred percent.

29 d. For the fourth year, ninety percent.

30 e. For the fifth year, eighty-five percent.

31 f. For the sixth year, eighty-five percent.

32 g. For the seventh year, eighty-five percent.

33 h. For the eighth year, eighty-five percent.

34 i. For the ninth year, eighty-five percent.

35 j. For the tenth year, eighty-five percent.

1 3. A person may submit an application to the board of  
2 supervisors in the county where the real estate is located and  
3 the agricultural enterprise zone is created. An application  
4 shall be filed for each new exemption claimed. The first  
5 application for an exemption shall be filed by the owner of  
6 the property with the board of supervisors by February 1 of  
7 the assessment year for which the exemption is claimed. The  
8 application shall contain information relating to the  
9 construction or improvement of the livestock facility,  
10 including but not limited to all of the following information:

- 11 a. The nature of the construction or improvement.
- 12 b. The date of completion.
- 13 c. The cost of the construction or improvement.

14 The board shall approve the application, subject to review  
15 by the county assessor. A person is not required to obtain  
16 approval of a previously approved exemption for succeeding  
17 years.

18 4. The county assessor shall review each first-year  
19 application by making a physical review of the property, to  
20 determine if the construction or improvements made increased  
21 the assessed value of the real estate by at least ten percent.  
22 If the county assessor determines that the assessed value of  
23 the real estate has increased by at least ten percent, the  
24 county assessor shall proceed to determine the assessed value  
25 of the property and certify the valuation determined pursuant  
26 to subsection 2 to the county auditor at the time of  
27 transmitting the assessment rolls. The county assessor shall  
28 notify the applicant of the determination, and the assessor's  
29 decision may be appealed to the local board of review as  
30 provided in section 441.37. If an application for an  
31 exemption is denied as a result of a failure to sufficiently  
32 increase the value of the real estate, the owner may file a  
33 first annual application in a subsequent year when additional  
34 improvements are made to satisfy the requirement. After the  
35 tax exemption is granted, the county assessor shall continue

1 to grant the tax exemption, with periodic physical review by  
2 the assessor for the remaining period of the scheduled  
3 exemption.

4

#### EXPLANATION

5 This bill provides that a county board of supervisors may  
6 by ordinance designate part of the county as an agricultural  
7 enterprise zone which is appropriate for intensive  
8 agricultural activities. The bill places restrictions on land  
9 eligible to be included within an agricultural enterprise  
10 zone. Land which is not eligible includes land within the  
11 corporate limits of a city, land within an area over which a  
12 city has exercised its zoning authority, or land within a  
13 state park or state preserve. The bill provides that the  
14 board of supervisors must also disqualify land that is of  
15 unique value or where populations of people reside or gather.

16 The bill provides procedures for creating an agricultural  
17 enterprise zone by petition or upon resolution of the board.  
18 The bill establishes procedures for amending the boundaries of  
19 the agricultural enterprise zone, rezoning land within the  
20 zone, or eliminating the zone.

21 The bill provides that an agricultural activity located  
22 within a zone is not a public or private nuisance, unless it  
23 is the result of a violation of federal or state law, it  
24 occurs prior to the creation of the zone, or it results from  
25 pollution, flooding, or excessive soil erosion.

26 Protections against nuisance suits remain in effect for 15  
27 years following the exclusion of land within a zone due to the  
28 elimination of the zone, the rezoning of the land, or a change  
29 in the boundaries of the zone.

30 The bill provides that a board of supervisors creating an  
31 agricultural enterprise zone may establish a partial exemption  
32 from taxation on the assessed value of livestock facilities  
33 constructed or improved within the agricultural enterprise  
34 zone. The bill requires that the assessed value of the real  
35 estate must be increased by at least 10 percent by the

1 construction or improvement. The exemption is for a period of  
2 10 years. The amount of the exemption is equal to a percent  
3 of the assessed value added by the construction or improvement  
4 which equals the following: 100 percent for the first three  
5 years, 90 percent for the fourth year, and 85 percent each  
6 year thereafter. The bill provides procedures for filing an  
7 application to the board to claim the credit. The county  
8 assessor must review each first-year application by making a  
9 physical inspection of the property.

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SENATE FILE 11

S-3007

- 1 Amend Senate File 11 as follows:
- 2 1. Page 1, by striking lines 14 through 24 and
- 3 inserting the following:
- 4 " ". The county must adopt a zoning ordinance
- 5 under this chapter in order to establish an
- 6 agricultural enterprise zone. All the land located
- 7 within the county is eligible to be included in the
- 8 agricultural enterprise zone, except for land within
- 9 the corporate limits of a city or land within a state
- 10 park or state preserve."
- 11 2. By renumbering as necessary.

By RALPH ROSENBERG

S-3007 FILED JANUARY 21, 1993

LOST

SENATE FILE 11

S-3010

- 1 Amend Senate File 11 as follows:
- 2 1. Page 2, line 3, by striking the words "a
- 3 legislative" and inserting the following: "an
- 4 adjudicatory".

By RALPH ROSENBERG

S-3010 FILED JANUARY 21, 1993

LOST

SENATE FILE 11

S-3005

Amend Senate File 11 as follows:

1. Page 1, line 7, by striking the word "not".
2. Page 1, line 17, by inserting after the word "city" the following: ", land within an area over which a city has exercised or has taken legislative action to exercise its authority to review subdivision plats as provided in section 354.9, in an area in which a city has begun planning for annexation of land,".
3. Page 1, line 23, by inserting after the word "exercised" the following: "or has taken legislative action to exercise".
4. Page 1, line 24, by inserting after the figure "414.23," the following: "or review subdivision plats as provided in section 354.9, in an area in which a city has begun planning for annexation of land,".
5. Page 2, by striking lines 25 through 27 and inserting the following: "ordinance, to all property owners and residents within one mile of the proposed zone. When amending the".
6. Page 3, line 24, by striking the word "fifteen" and inserting the following: "five".

By WILLIAM W. DIELEMAN

S-3005 FILED JANUARY 21, 1993

THDRAWN

SENATE FILE 11

S-3006

Amend Senate File 11 as follows:

1. Page 2, line 12, by inserting after the word "county" the following: "who reside within the proposed boundaries".
2. Page 2, line 16, by inserting after the word "may" the following: "establish an agricultural enterprise zone,".
3. Page 2, line 18, by striking the words "a zone" and inserting the following: "the agricultural enterprise zone".

By RALPH ROSENBERG

S-3006 FILED JANUARY 21, 1993

LOST

SENATE FILE 11

S-3003

Amend Senate File 11 as follows:

1. Page 4, by striking lines 8 and 9 and inserting the following:  
"\_\_\_\_\_. "Livestock facility" means a building or structure, an addition to an existing building or structure, or the renovation of an existing building or structure, which is".

By MERLIN BARTZ  
DERRYL MCLAREN

BERL E. PRIEBE  
JAMES R. RIORDAN

S-3003 FILED JANUARY 13, 1993

adopted 1-21-93 (P. 111)

S-3008

Amend Senate File 11 as follows:

- A 1. Page 1, line 17, by inserting after the word  
 3 "city" the following: ", land within an area over  
 4 which a city has exercised or has taken legislative  
 5 action to exercise its authority to review subdivision  
 6 plats as provided in section 354.9, in an area in  
 7 which a city has begun planning for annexation of  
 8 land,".
- 9 2. Page 1, line 23, by inserting after the word  
 10 "exercised" the following: "or has taken legislative  
 11 action to exercise".
- 12 3. Page 1, line 24, by inserting after the figure  
 13 "414.23," the following: "or review subdivision plats  
 14 as provided in section 354.9, in an area in which a  
 15 city has begun planning for annexation of land,".
- B 16 4. Page 1, by striking lines 32 through 34 and  
 17 inserting the following:  
 18 "b. A city, residential subdivision, or other  
 19 population center.  
 20 c. A location at which a significant number of  
 21 people".
- 22 5. Page 2, by striking lines 25 through 27 and  
 23 inserting the following: "ordinance, to all property  
 24 owners and residents within one mile of the proposed  
 25 zone. When amending the".
- 26 6. Page 2, line 29, by striking the words "the  
 27 owners of".
- 28 7. Page 2, by striking lines 30 through 32 and  
 29 inserting the following: "all property owners and  
 30 residents within one mile of the proposed amended  
 31 zone."
- 32 8. Page 3, line 24, by striking the word  
 33 "fifteen" and inserting the following: "ten".

By COMMITTEE ON WAYS AND MEANS  
 WILLIAM W. DIELEMAN, Chairperson

S-3008 FILED JANUARY 21, 1993  
 DIVISION A-LOST, DIVISION B-ADOPTED

SENATE FILE 11

S-3009

1 Amend the amendment, S-3008, to Senate File 11 as  
 2 follows:

- 3 1. Page 1, line 7, by striking the words  
 4 "planning for".  
 5 2. Page 1, line 15, by striking the words  
 6 "planning for".

By BERL E. PRIEBE

S-3009 FILED JANUARY 21, 1993  
 ADOPTED



1 Section 1. NEW SECTION. 335.32 CREATION OF AGRICULTURAL  
2 ENTERPRISE ZONES.

3 1. A county board of supervisors may by ordinance  
4 designate part of the county as being appropriate for  
5 intensive agricultural activities. This part shall be  
6 referred to as an "agricultural enterprise zone." The land  
7 included within this zone is not required to be contiguous.

8 As used in this section, "agricultural activity" means an  
9 activity directly connected to the raising, drying, or storage  
10 of crops, the care or feeding of livestock as defined in  
11 section 267.1, the handling or transportation of crops or  
12 livestock, or the treatment or disposal of wastes resulting  
13 from livestock.

14 2. In a county that has adopted a zoning ordinance, all of  
15 the land located within the county is eligible to be included  
16 in the agricultural enterprise zone, except for land within  
17 the corporate limits of a city or land within a state park or  
18 state preserve.

19 3. In a county that has not adopted a zoning ordinance,  
20 all of the land within the county is eligible to be included  
21 in the agricultural enterprise zone, except for land within  
22 the corporate limits of a city, land within an area over which  
23 a city has exercised its zoning authority as provided under  
24 section 414.23, or land within a state park or state preserve.

25 4. All of the eligible land may be included in an  
26 agricultural enterprise zone, except to the extent that the  
27 board of supervisors excludes eligible land from the  
28 agricultural enterprise zone because the land is, or is  
29 located in close proximity to, one of the following:

30 a. Land that is unique, and of scientifically recognized  
31 ecological value.

32 b. A city, residential subdivision, or other population  
33 center.

34 c. A location at which a significant number of people  
35 regularly congregate.

1 The determination by the board of supervisors that land is  
2 in close proximity to a location excluded under this section  
3 shall be a legislative determination.

4 5. The board of supervisors shall conduct a public hearing  
5 on the adoption of a proposed ordinance establishing an  
6 agricultural enterprise zone within sixty days after either of  
7 the following:

8 a. The board of supervisors receives a petition requesting  
9 adoption of such an ordinance. The petition shall specify the  
10 proposed boundaries of the agricultural enterprise zone. The  
11 petition must be signed by at least fifty eligible electors of  
12 the county.

13 b. The board of supervisors approves a resolution  
14 indicating its intent to establish an agricultural enterprise  
15 zone.

16 6. The board of supervisors may amend the boundaries of  
17 the agricultural enterprise zone, rezone areas included within  
18 a zone, or eliminate the agricultural enterprise zone. When  
19 establishing an agricultural enterprise zone, rezoning the  
20 land within the zone, or amending its borders, the board of  
21 supervisors shall comply with the notice, hearing, and  
22 adoption requirements provided in section 335.6. When  
23 establishing such a zone, the board of supervisors shall mail  
24 a notice, at least ten days before the public hearing on the  
25 ordinance, to all property owners and residents within one  
26 mile of the proposed zone. When amending the borders of such  
27 a zone, or rezoning land within the zone, the board of

\* 28 supervisors shall mail this notice to all property owners and  
29 residents within one mile of the proposed amended zone.

30 7. Upon the creation of an agricultural enterprise zone,  
31 or the amendment of its borders, the board of supervisors  
32 shall cause its description to be filed with the county  
33 auditor and placed on record in the office of the county  
34 recorder.

35 Sec. 2. NEW SECTION. 335.33 NUISANCE RESTRICTIONS WITHIN

1 AGRICULTURAL ENTERPRISE ZONES.

2 1. Subject to the exceptions in subsection 2, an  
3 agricultural activity located in an agricultural enterprise  
4 zone established pursuant to section 335.32 shall not be found  
5 to be a public or private nuisance regardless of the  
6 established date of operation or expansion of the agricultural  
7 activity.

8 2. This section does not apply to any of the following:

9 a. A public or private nuisance which is the result of an  
10 agricultural activity determined to be in violation of a  
11 federal statute or regulation or state statute or rule.

12 b. An action or proceeding arising from injury or damage  
13 to person or property caused by the agricultural activity  
14 before the creation of the agricultural enterprise zone.

15 c. The right of a person to recover damages for injury or  
16 damage sustained by the person because of the pollution or  
17 change in condition of the waters of a stream, the overflowing  
18 of such waters on the person's land, or excessive soil erosion  
19 onto another person's land.

20 3. This section shall apply to an agricultural activity  
21 for ten years following the exclusion of land within an  
22 agricultural enterprise zone due to the elimination of the  
23 zone, the rezoning of the land included in the zone by the  
24 county or a city, or the change in the boundaries of the zone.  
25 This section shall apply to an agricultural activity from the  
26 earliest date of either the filing of an application by or on  
27 behalf of the property owner for a local or state permit  
28 authorizing work related to the activity, or the commencement  
29 of construction of any facility related to the activity.

30 4. As used in this section "agricultural activity" means  
31 the same as defined in section 335.32.

32 Sec. 3. NEW SECTION. 427B.8 PROPERTY TAX EXEMPTION FOR  
33 QUALIFIED LIVESTOCK FACILITIES.

34 1. As used in this section, unless the context otherwise  
35 requires:

1 a. "Agricultural enterprise zone" means an agricultural  
2 enterprise zone created pursuant to section 335.32.

3 b. "Livestock" means livestock as defined in section  
4 267.1.

5 c. "Livestock facility" means a building or structure, an  
6 addition to an existing building or structure, or the  
7 renovation of an existing building or structure, which is  
8 primarily adapted for providing shelter to or feeding of  
9 livestock.

10 2. The board of supervisors creating an agricultural  
11 enterprise zone may, as part of the ordinance creating the  
12 zone, establish a partial exemption from taxation on the  
13 assessed value of a structure which is constructed or improved  
14 as a livestock facility within the agricultural enterprise  
15 zone, if the construction or improvements occur during the  
16 period when the agricultural enterprise zone exists. The  
17 assessed value of the real estate must be increased by at  
18 least ten percent by the construction or improvement. The  
19 exemption is for a period of ten years, beginning in the year  
20 that the construction or improvement is first assessed for  
21 taxation. The amount of the partial exemption is equal to a  
22 percent of the assessed value added by the construction or  
23 improvements, which shall be determined as follows:

24 a. For the first year, one hundred percent.

25 b. For the second year, one hundred percent.

26 c. For the third year, one hundred percent.

27 d. For the fourth year, ninety percent.

28 e. For the fifth year, eighty-five percent.

29 f. For the sixth year, eighty-five percent.

30 g. For the seventh year, eighty-five percent.

31 h. For the eighth year, eighty-five percent.

32 i. For the ninth year, eighty-five percent.

33 j. For the tenth year, eighty-five percent.

34 3. A person may submit an application to the board of  
35 supervisors in the county where the real estate is located and

1 the agricultural enterprise zone is created. An application  
2 shall be filed for each new exemption claimed. The first  
3 application for an exemption shall be filed by the owner of  
4 the property with the board of supervisors by February 1 of  
5 the assessment year for which the exemption is claimed. The  
6 application shall contain information relating to the  
7 construction or improvement of the livestock facility,  
8 including but not limited to all of the following information:

9 a. The nature of the construction or improvement.

10 b. The date of completion.

11 c. The cost of the construction or improvement.

12 The board shall approve the application, subject to review  
13 by the county assessor. A person is not required to obtain  
14 approval of a previously approved exemption for succeeding  
15 years.

16 4. The county assessor shall review each first-year  
17 application by making a physical review of the property, to  
18 determine if the construction or improvements made increased  
19 the assessed value of the real estate by at least ten percent.  
20 If the county assessor determines that the assessed value of  
21 the real estate has increased by at least ten percent, the  
22 county assessor shall proceed to determine the assessed value  
23 of the property and certify the valuation determined pursuant  
24 to subsection 2 to the county auditor at the time of  
25 transmitting the assessment rolls. The county assessor shall  
26 notify the applicant of the determination, and the assessor's  
27 decision may be appealed to the local board of review as  
28 provided in section 441.37. If an application for an  
29 exemption is denied as a result of a failure to sufficiently  
30 increase the value of the real estate, the owner may file a  
31 first annual application in a subsequent year when additional  
32 improvements are made to satisfy the requirement. After the  
33 tax exemption is granted, the county assessor shall continue  
34 to grant the tax exemption, with periodic physical review by  
35 the assessor for the remaining period of the scheduled

- 1 exemption.
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## SENATE FILE 11

H-3673

1 Amend Senate File 11, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. By striking page 1, line 1 through page 2,  
4 line 34, and inserting the following:

5 "Section 1. NEW SECTION. 335.32 CREATION OF  
6 AGRICULTURAL ENTERPRISE ZONES.

7 1. As used in this section, "agricultural  
8 activity" means an activity directly connected to the  
9 raising, drying, or storage of crops, the care or  
10 feeding of livestock as defined in section 267.1, the  
11 handling or transportation of crops or livestock, or  
12 the treatment or disposal of organic nutrients  
13 resulting from livestock.

14 2. A county board of supervisors may adopt an  
15 ordinance which designates part of the county as being  
16 appropriate for agricultural activity. That part of  
17 the county shall be referred to as an "agricultural  
18 enterprise zone." The land included within an  
19 agricultural enterprise zone is not required to be  
20 contiguous.

21 3. a. The establishment of an agricultural  
22 enterprise zone shall be subject to the approval of a  
23 city by a resolution adopted by the city council, if  
24 land included in the proposed agricultural enterprise  
25 zone is located two miles or less from the corporate  
26 limits of the city or if land included within the  
27 proposed agricultural enterprise zone is the subject  
28 of a pending application or petition for annexation or  
29 incorporation under chapter 368.

30 b. The establishment of an agricultural enterprise  
31 zone shall be subject to the approval of another  
32 county, by a resolution adopted by that county's board  
33 of supervisors, if land included in the proposed  
34 agricultural enterprise zone is located two miles or  
35 less from the borders of that county.

36 4. a. In a county that has adopted a zoning  
37 ordinance, all of the land located within the county  
38 is eligible to be included in the agricultural  
39 enterprise zone, except for land within the corporate  
40 limits of a city or land within a state park, state  
41 recreation area, or state preserve.

42 b. In a county that has not adopted a zoning  
43 ordinance, all of the land within the county is  
44 eligible to be included in the agricultural enterprise  
45 zone, except for land within the corporate limits of a  
46 city, land within an area over which a city has  
47 exercised its zoning authority as provided under  
48 section 414.23, or land within a state park, state  
49 recreation area, or state preserve.

50 5. The county board of supervisors may designate

3673

H-3673

Page 2

1 all or any part of land within the county which is  
2 eligible under this section to be included within an  
3 agricultural enterprise zone. However, the board of  
4 supervisors may exclude eligible land from the  
5 agricultural enterprise zone because the land is, or  
6 is located in close proximity to, one of the  
7 following:

8 a. Land that is unique, and of scientifically  
9 recognized ecological value.

10 b. A residential subdivision or other population  
11 center.

12 c. A location at which a significant number of  
13 people regularly congregate.

14 The determination by the board of supervisors that  
15 land is in close proximity to a location excluded  
16 under this section shall be a legislative  
17 determination made by the board of supervisors.

18 6. When establishing an agricultural enterprise  
19 zone, the board of supervisors shall comply with the  
20 notice, hearing, and adoption requirements in section  
21 335.6. The board of supervisors shall conduct a  
22 public hearing on the adoption of a proposed ordinance  
23 establishing an agricultural enterprise zone. The  
24 board of supervisors shall mail a notice, at least  
25 twenty days before the public hearing on the  
26 ordinance, to all property owners and residents within  
27 the proposed agricultural enterprise zone and within  
28 two miles outside of the proposed zone. The public  
29 hearing shall be conducted within sixty days after  
30 either of the following:

31 a. The date that the board of supervisors receives  
32 a petition requesting adoption of such an ordinance.  
33 The petition shall specify the proposed boundaries of  
34 the agricultural enterprise zone. The petition must  
35 be signed by either at least twenty percent of the  
36 eligible electors residing in the proposed  
37 agricultural zone or at least fifty eligible electors  
38 residing in the proposed agricultural zone, whichever  
39 is less.

40 b. The date that the board of supervisors approves  
41 a resolution indicating its intent to establish an  
42 agricultural enterprise zone.

43 7. a. The board of supervisors may amend the  
44 boundaries of the agricultural enterprise zone, rezone  
45 areas included within a zone, or eliminate the  
46 agricultural enterprise zone.

47 b. The amendment of boundaries of an agricultural  
48 enterprise zone shall be subject to the approval of a  
49 city by resolution adopted by the city council, if new  
50 land included in the amended agricultural enterprise

H-3673

-2-

H-3673

Page 3

1 zone is located two miles or less from the corporate  
2 limits of the city or if new land included within the  
3 amended agricultural enterprise zone is the subject of  
4 a pending application or petition for annexation or  
5 incorporation under chapter 368.

6 The amendment of boundaries of an agricultural  
7 enterprise zone shall be subject to the approval of  
8 another county, by resolution adopted by the county's  
9 board of supervisors, if new land included in the  
10 amended agricultural enterprise zone is located two  
11 miles or less from the borders of that county.

12 c. When amending the borders of an agricultural  
13 enterprise zone or rezoning the land within an  
14 agricultural enterprise zone, the board of supervisors  
15 shall comply with the notice, hearing, and adoption  
16 requirements in section 335.6. When amending the  
17 borders of a zone, or rezoning land within the zone,  
18 the board of supervisors shall mail a notice as  
19 provided in this section to all property owners and  
20 residents within the proposed agricultural enterprise  
21 zone and within two miles outside of the proposed  
22 amended zone.

23 8. Upon the establishment of an agricultural  
24 enterprise zone, or the amendment of its borders, the  
25 board of supervisors shall cause its description to be  
26 filed with the county auditor and placed on record in  
27 the office of the county recorder."

28 Page 3, by inserting after line 29 the  
29 following:

30 "\_\_\_ . a. An agricultural activity which is a  
31 livestock feeding operation located within an  
32 agricultural enterprise zone must be located at least  
33 one thousand two hundred fifty feet from a residence  
34 not owned by the owner of the animal feeding operation  
35 or from a public use area other than a public road, if  
36 the livestock feeding operation contains less than six  
37 hundred twenty-five thousand pounds of live animal  
38 weight capacity of animal species other than beef  
39 cattle or which contains less than one million six  
40 hundred thousand pounds of live animal weight capacity  
41 of beef cattle. An agricultural activity which is a  
42 livestock feeding operation located within an  
43 agricultural enterprise zone must be located at least  
44 one thousand eight hundred seventy-five feet from a  
45 residence not owned by the owner of the animal feeding  
46 operation or from a public use area other than a  
47 public road, if the livestock feeding operation  
48 contains six hundred twenty-five thousand pounds or  
49 more of live animal weight capacity of animal species  
50 other than beef cattle or which contains one million

H-3673

-3-

H-3673

Page 4

1 six hundred thousand pounds or more of live animal  
2 weight capacity of beef cattle.

3 b. For purposes of this subsection, the  
4 determination of live animal weight capacity shall be  
5 based on the average weight capacity during a  
6 production cycle and the maximum animal capacity of  
7 the animal feeding operation.

8 c. A separation distance required in this  
9 subsection applies to a livestock feeding operation  
10 constructed or expanded after the date that the land  
11 where the operation is located becomes included within  
12 an agricultural enterprise zone.

13 d. An animal feeding operation may be constructed  
14 or expanded closer to a residence than is permitted by  
15 this subsection, if each affected landowner enters  
16 into a written agreement with the owner of the animal  
17 feeding operation to waive the separation distances  
18 under such terms that the parties negotiate. The  
19 written agreement becomes effective only upon  
20 recording the agreement in the office of the recorder  
21 of deeds of the county in which the residence is  
22 located."

23 2. By striking page 3, line 32 through page 6,  
24 line 1.

25 3. Title page, by striking lines 2 and 3, and  
26 inserting the following: "zones, and restricting  
27 nuisance suits."

28 4. By renumbering as necessary.

By COMMITTEE ON AGRICULTURE  
EDDIE of Buena Vista, Chairperson

H-3673 FILED APRIL 2, 1993

*out of order*  
*4-19-93*

## SENATE FILE 11

H-3802

1 Amend Senate File 11, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 3, by striking lines 2 through 7 and  
4 inserting the following:

5 "\_\_\_\_\_. In an action or proceeding against a person  
6 arising from an agricultural activity conducted on  
7 land included within an agricultural enterprise zone  
8 as provided in section 335.32, a person shall not be  
9 liable for damages caused by a public or private  
10 nuisance, except as provided in this section."

11 2. Page 3, by inserting after line 8 the  
12 following:

13 "\_\_\_\_\_. An action or proceeding brought by or on  
14 behalf of a person who acquired an interest in land  
15 subject to the alleged nuisance prior to the date that  
16 the agricultural activity was established or expanded,  
17 if the establishment or expansion of the agricultural  
18 activity is a direct or proximate cause of damages  
19 claimed by the person. A court may award attorney  
20 fees and court costs to a defendant if the court finds  
21 that the plaintiff's action is frivolous."

22 3. Page 3, line 21, by striking the word "ten"  
23 and inserting the following: "three".

*out of Order 4-19-93* By BERNAU of Story  
H-3802 FILED APRIL 7, 1993

## - SENATE FILE 11

H-3780

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 2, by striking lines 14 through 17 and  
5 inserting the following:

6 "A district court, hearing a matter regarding an  
7 ordinance establishing an agricultural enterprise zone  
8 or amending the borders of an agricultural enterprise  
9 zone, shall conduct a de novo hearing on any issue  
10 raised on appeal regarding whether the land is in  
11 close proximity to a location described in this  
12 subsection."

By NEUHAUSER of Johnson

H-3780 FILED APRIL 7, 1993

*out of Order 4-19-93*

## SENATE FILE 11

H-3781

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 2, line 4, by striking the word "may" and  
5 inserting the following: "shall".

By NEUHAUSER of Johnson

H-3781 FILED APRIL 7, 1993

*out of Order*  
*4-19-93*

H-3799

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, line 49, by inserting after the word  
5 "preserve." the following: "If a permit is required  
6 to be issued by the department of natural resources  
7 relating to the construction or operation of a  
8 facility used for an agricultural activity within an  
9 agricultural enterprise zone in a county that has not  
10 adopted a zoning ordinance, the department may  
11 condition the issuance of the permit on restrictions  
12 necessary to ensure that a state park, state  
13 recreation area, or state preserve is protected from  
14 the effects of the agricultural activity which may  
15 negatively impact the use or enjoyment of the state  
16 park, state recreation area, or state preserve."

By MAY of Worth

H-3799 FILED APRIL 7, 1993

*Out of Order 4-19-93*

SENATE FILE 11

H-3801

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 2, line 4, by striking the word "may" and  
5 inserting the following: "shall".

6 2. Page 2, line 13, by inserting after the word  
7 "congregate" the following: ", which shall include  
8 but is not limited to any place where religious  
9 observances or worship regularly occurs, if the place  
10 is located on land in which a religious organization  
11 or association holds a legal interest".

By HAVERLAND of Polk

H-3801 FILED APRIL 7, 1993

*Out of Order  
4-19-93*

## SENATE FILE 11

H-3902

1 Amend Senate File 11, as amended, passed, and re-  
2 printed by the Senate, as follows:

3 1. By striking page 2, line 35, through page 3,  
4 line 31 and inserting the following:

5 "Sec. \_\_\_\_ . NEW SECTION. 335.33 AGRICULTURAL  
6 ACTIVITIES WITHIN AGRICULTURAL ENTERPRISE ZONES --  
7 NUISANCE SUITS.

8 1. As used in this section:

9 a. "Agricultural activity" means the same as  
10 defined in section 335.32.

11 b. "Nuisance" means an activity which arises from  
12 an unreasonable, unwarranted, or unlawful use of  
13 property which works an obstruction or injury to the  
14 comfortable enjoyment of life or property of another,  
15 or which renders ordinary use or occupation of that  
16 property physically uncomfortable, including a private  
17 or public nuisance as provided by statute or common  
18 law.

19 2. In any action or proceeding against a person  
20 arising from an agricultural activity conducted on  
21 land included within an agricultural enterprise zone,  
22 a person shall not be liable for damages caused by a  
23 nuisance, unless all of the following conditions are  
24 satisfied:

25 a. The claim for nuisance in the action or  
26 proceeding is brought by or on behalf of a person who  
27 acquired an interest in the land subject to the  
28 alleged nuisance prior to the date that the  
29 agricultural activity was established or expanded.

30 b. The agricultural activity causes a sustained or  
31 regular and substantial interference with the  
32 reasonable enjoyment of the life or property of the  
33 person.

34 c. The agricultural activity is carried out in a  
35 manner which significantly departs from practices  
36 customarily used or recognized by persons engaged in  
37 the same type of agricultural activity. An  
38 agricultural activity shall be presumed to depart from  
39 practices customarily used or recognized by persons  
40 engaged in the same type of agricultural activity if  
41 the activity is in violation of a federal statute or  
42 regulation, a state statute or rule, or an ordinance  
43 adopted by a county or city having jurisdiction over  
44 the land where the agricultural activity is located.

45 3. A party to an action or proceeding who does not  
46 prevail with regard to a claim for nuisance arising  
47 from an agricultural activity conducted on land  
48 included within an agricultural enterprise zone shall  
49 pay court costs and the reasonable attorney fees  
50 expended by the opposing party in defending the claim,

H-3902

H-3902

Page 2

1 unless a court determines that the claim is well  
2 grounded in fact, is warranted by existing law or a  
3 good faith argument for the extension, modification,  
4 or reversal of existing law, and is not brought for a  
5 purpose considered improper under the Iowa rules of  
6 civil procedure, such as to harass or cause any  
7 unnecessary delay or needless increase in the cost of  
8 litigation.

9 4. This section does not apply to an action to  
10 recover damages for injury or damage sustained by the  
11 person because of pollution to or a change in  
12 conditions of the waters of a river or stream, the  
13 overflowing of such waters onto a person's land, or  
14 the erosion of soil onto that person's land."

15 2. Page 6, by inserting after line 1, the  
16 following:

17 "Sec. \_\_\_\_\_. Section 657.8, Code 1993, is amended by  
18 adding the following new unnumbered paragraph:

19 NEW UNNUMBERED PARAGRAPH. A civil action shall not  
20 be brought under this chapter based upon a nuisance  
21 arising from an agricultural activity carried out on  
22 land within an agricultural enterprise zone, except as  
23 provided in section 335.33."

24 3. By renumbering as necessary.

By McNEAL of Hardin

H-3902 FILED APRIL 13, 1993

*Out of Order*  
*4-19-92 (P. 1410)*

## SENATE FILE 11

H-3814

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 2, by inserting after line 42, the  
5 following:

6 "A county board of supervisors shall not adopt the  
7 ordinance establishing an agricultural enterprise zone  
8 until after a referendum in which a majority of  
9 eligible electors residing on land which would be  
10 included within the proposed agricultural enterprise  
11 zone vote to approve the establishment of the  
12 agricultural enterprise zone. The county board of  
13 supervisors shall provide notice of the referendum,  
14 including the time and places of holding the  
15 referendum and the hours when the polls will open and  
16 close. The notice shall be published for two  
17 consecutive weeks in a newspaper in which the official  
18 proceedings of the board are published. The final  
19 notice shall be published not less than ten days  
20 before the date of the referendum. A map of the  
21 county illustrating the borders of the proposed  
22 agricultural enterprise zone shall be posted at each  
23 place of voting. On the day designated for the  
24 referendum the polls shall open at 8:00 a.m. and  
25 remain open until 8:00 p.m. The judges of the  
26 referendum shall canvass the vote, certify the  
27 results, and deposit with the county auditor the  
28 ballots cast, together with the poll books showing the  
29 names of the voters. The board of supervisors shall  
30 canvass returns on the next Monday following the  
31 referendum. The board shall make a return of the  
32 results available to the county auditor who shall  
33 publish the results in the same newspaper in which  
34 notice of the referendum was provided."

35 2. Page 3, by striking lines 16 through 22, and  
36 inserting the following: "requirements in section  
37 335.6.

38 \_\_\_\_\_. The board of supervisors shall conduct a  
39 public hearing on the adoption of a proposed ordinance  
40 amending an agricultural enterprise zone. The board  
41 of supervisors shall mail a notice, at least twenty  
42 days before the public hearing on the ordinance, to  
43 all property owners and residents of land currently  
44 located within the agricultural enterprise zone which  
45 would be excluded from the zone because of the  
46 proposed amended borders, all property owners and  
47 residents of land not currently located within the  
48 agricultural enterprise zone but which would be  
49 included in the agricultural enterprise zone because  
50 of the proposed amended borders, and all property

H-3814

-1-

H-3814

Page 2

1 owners and residents of land located within two miles  
2 outside the proposed amended borders of the  
3 agricultural enterprise zone. The public hearing  
4 shall be conducted within sixty days after either of  
5 the following:

6 (1) The date that the board of supervisors  
7 receives a petition requesting adoption of such an  
8 ordinance. The petition shall specify the proposed  
9 amended borders of the agricultural enterprise zone.  
10 If the petition amends the borders of the agricultural  
11 enterprise zone to exclude land within the current  
12 zone, the petition must be signed by either at least  
13 twenty percent of the eligible electors currently  
14 residing within that part of the agricultural  
15 enterprise zone proposed to be excluded, or at least  
16 fifty eligible electors currently residing within that  
17 part of the agricultural enterprise zone proposed to  
18 be excluded, whichever is less. If the petition  
19 amends the borders of the agricultural enterprise zone  
20 to include more land within the zone, the petition  
21 must be signed by either at least twenty percent of  
22 the eligible electors who will reside in the  
23 agricultural enterprise zone because of the proposed  
24 amendment to the borders of the zone, or fifty  
25 eligible electors who will reside in the agricultural  
26 enterprise zone because of the proposed amendment to  
27 the borders of the zone, whichever is less.

28 (2) The date that the board of supervisors  
29 approves a resolution indicating its intent to amend  
30 the borders of an agricultural enterprise zone."

31 3. Page 3, by inserting before line 23, the  
32 following:

33 "A county board of supervisors shall not adopt the  
34 ordinance amending the borders of an agricultural  
35 enterprise zone until after a referendum in which a  
36 majority of eligible electors vote to approve the  
37 amendment. If the amendment would exclude land  
38 existing in the agricultural enterprise zone, only  
39 electors residing on the land to be excluded by the  
40 ordinance may vote in the referendum. If the  
41 amendment would include more land within the  
42 agricultural enterprise zone, only electors residing  
43 on land to be included by the ordinance may vote in  
44 the referendum. The county board of supervisors shall  
45 conduct the referendum as provided in subsection 6,  
46 except that a map of the county illustrating the  
47 borders of the existing agricultural enterprise zone  
48 and the proposed amended borders of the zone shall be  
49 posted at each place of voting."

50 4. Page 3, by inserting before line 23 the

H-3814

-2-

H-3814

Page 3

1 following:

2 " . . . When eliminating an agricultural enterprise  
3 zone, the board of supervisors shall comply with the  
4 notice, hearing, and adoption requirements in section  
5 335.6. The board of supervisors shall conduct a  
6 public hearing on the adoption of a proposed ordinance  
7 eliminating the agricultural enterprise zone. The  
8 board of supervisors shall mail a notice, at least  
9 twenty days before the public hearing on the  
10 ordinance, to all property owners and residents of  
11 land located within the agricultural enterprise zone.  
12 The public hearing shall be conducted within sixty  
13 days after either of the following:

14 (1) The date that the board of supervisors  
15 receives a petition requesting adoption of such an  
16 ordinance. The petition must be signed by either at  
17 least twenty percent of the eligible electors who  
18 reside in the agricultural enterprise zone or at least  
19 fifty eligible electors who reside in the agricultural  
20 enterprise zone, whichever is less.

21 (2) The date that the board of supervisors  
22 approves a resolution indicating its intent to  
23 eliminate an agricultural enterprise zone."

24 5. Page 3, by inserting before line 23 the  
25 following:

26 "A county board of supervisors shall not adopt the  
27 ordinance eliminating an agricultural enterprise zone  
28 until after a referendum in which a majority of  
29 eligible electors residing within the agricultural  
30 enterprise zone vote to eliminate the zone. The  
31 county board of supervisors shall conduct the  
32 referendum as provided in subsection 6, except that a  
33 map of the county illustrating the borders of the  
34 existing agricultural enterprise zone shall be posted  
35 at each place of voting."

36 6. By relettering and renumbering as necessary.

By NEUHAUSER of Johnson

H-3814 FILED APRIL 8, 1993

*out of order  
4-19-93*

## SENATE FILE 11

H-3829

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, line 12, by striking the words  
5 "organic nutrients" and inserting the following:  
6 "wastes".

7 2. Page 1, line 19, by striking the word "not".

8 3. Page 1, line 20, by inserting after the word  
9 "contiguous." the following: "An agricultural  
10 enterprise zone shall, to the greatest degree  
11 practicable, have straight squared borders with not  
12 less than one-half mile between opposite borders."

13 4. Page 1, by inserting before line 21 the  
14 following:

15 "An agricultural enterprise zone must include at  
16 least six hundred acres of land."

17 5. Page 1, by striking lines 36 through 49, and  
18 inserting the following:

19 "\_\_\_\_. A county shall not establish an agricultural  
20 enterprise zone, unless the county has adopted a  
21 zoning ordinance as provided in this chapter.

22 \_\_\_\_\_. All land located within the county is  
23 eligible to be included in an agricultural enterprise  
24 zone, except for land within the corporate limits of a  
25 city, or land within a state park, state recreation  
26 area, or state preserve."

27 6. Page 2, line 4, by striking the word "may" and  
28 inserting the following: "shall".

29 7. Page 2, by inserting after line 42, the  
30 following:

31 "\_\_\_\_. A county board of supervisors shall not  
32 adopt the ordinance until after a referendum in which  
33 a majority of eligible electors residing within the  
34 county vote to approve the establishment of the  
35 agricultural enterprise zone. The county board of  
36 supervisors shall provide notice of the referendum,  
37 including the time and places of holding the  
38 referendum and the hours when the polls will open and  
39 close. The referendum shall be conducted within sixty  
40 days following the public hearing. The notice shall  
41 be published for two consecutive weeks in a newspaper  
42 in which the official proceedings of the board are  
43 published. The final notice shall be published not  
44 less than ten days before the date of the referendum.  
45 A map of the county illustrating land subject to  
46 exclusion from or inclusion in the agricultural  
47 enterprise zone shall be posted at each place of  
48 voting. On the day designated for the referendum the  
49 polls shall open at 8:00 a.m. and remain open until  
50 8:00 p.m. The judges of the referendum shall canvass

H-3829

-1-

1 the vote, certify the results, and deposit with the  
 2 county auditor the ballots cast, together with the  
 3 poll books showing the names of the voters. The board  
 4 of supervisors shall canvass returns on the next  
 5 Monday following the referendum. The board shall make  
 6 a return of the results available to the county  
 7 auditor who shall publish the results in the same  
 8 newspaper in which notice of the referendum was  
 9 provided."

10 8. Page 3, line 30, by inserting after the letter  
 11 "a." the following: "A county board of supervisors  
 12 may by ordinance establish separation distances  
 13 involving agricultural activities in an agricultural  
 14 enterprise zone."

15 9. Page 4, line 2, by inserting after the word  
 16 "cattle." the following: "Notwithstanding the  
 17 distance requirements of this paragraph, an  
 18 agricultural activity, including but not limited to a  
 19 livestock feeding operation, located within an  
 20 agricultural enterprise zone, must be located at least  
 21 two miles from the boundaries of a public use area  
 22 which is a state park, state recreation area, or state  
 23 preserve."

24 10. By renumbering as necessary.

By BERNAU of Story

H-3829 FILED APRIL 8, 1993

*out of order  
 4-19-93  
 (p. 1410)*

## SENATE FILE 11

H-3855

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, line 42, by striking the following:  
5 "b. In" and inserting the following: "In".

6 2. Page 1, by inserting after line 49, the  
7 following:

8 "b. If a permit is required to be issued by the  
9 department of natural resources relating to the  
10 construction or operation of a facility used for an  
11 agricultural activity within an agricultural  
12 enterprise zone, the department may condition the  
13 issuance of the permit on restrictions necessary to  
14 ensure that a state park, state recreation area, or  
15 state preserve is protected from the effects of the  
16 agricultural activity which may negatively impact the  
17 use or enjoyment of the state park, state recreation  
18 area, or state preserve."

By MAY of Worth

H-3855 FILED APRIL 12, 1993

*out of order 4-19-93*

## SENATE FILE 11

H-3856

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 3, line 23, by inserting after the figure  
5 "8." the following: "a."

6 2. Page 3, by inserting after line 27 the  
7 following:

8 "b. Upon the establishment of an agricultural  
9 enterprise zone, the amendment of the borders of an  
10 agricultural enterprise zone, or the elimination of an  
11 agricultural enterprise zone, the county board of  
12 supervisors shall deliver information relating to the  
13 zone to the department of natural resources, as  
14 provided by rules which shall be adopted by the  
15 department. The department shall incorporate the  
16 information into a geographic information system which  
17 shall be used by the department in issuing permits  
18 required for the construction or operation of  
19 facilities used for agricultural activities. The  
20 department shall provide the information to persons  
21 upon request."

By MAY of Worth

H-3856 FILED APRIL 12, 1993

*out of order 4-19-93*

## SENATE FILE 11

H-3894

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 2, line 4, by striking the word "may" and  
5 inserting the following: "shall".

6 2. Page 2, line 9, by inserting after the word  
7 "value" the following: "as determined by the  
8 department of natural resources. A county shall not  
9 include land within a proposed agricultural enterprise  
10 zone or land within a proposed amended agricultural  
11 enterprise zone until the department completes an  
12 inventory of all land that is unique and of  
13 scientifically recognized ecological value within the  
14 proposed agricultural enterprise zone or proposed  
15 amended agricultural enterprise zone. The department  
16 shall inventory such land in cooperation with private  
17 landowners. The department shall determine that land  
18 is of unique and scientifically recognized value if  
19 the land includes a habitat required to ensure  
20 biological diversity. As used in this paragraph,  
21 "biological diversity" means the full range of variety  
22 and variability within and among living organisms and  
23 the natural associations in which they occur, and  
24 including ecosystem diversity, species diversity, and  
25 genetic diversity. The department shall deliver to  
26 the county board of supervisors a description of land  
27 that is unique, and of scientifically recognized  
28 ecological value not later than six months after  
29 beginning the inventoring program within the proposed  
30 agricultural enterprise zone or proposed amended  
31 agricultural enterprise zone".

32 3. Page 2, by striking lines 14 through 17.

33 4. Page 2, by inserting after line 42 the  
34 following:

35 "A county board of supervisors may decide not to  
36 establish an agricultural enterprise zone, based on a  
37 determination that the establishment of the zone would  
38 not be in the best interest of ensuring biological  
39 diversity."

40 5. Page 3, by inserting before line 23 the  
41 following:

42 "A county board of supervisors may decide not to  
43 amend an agricultural enterprise zone to include more  
44 land, based on a determination that the inclusion of  
45 the land within the zone would not be in the best  
46 interest of ensuring biological diversity."

By SHOULTZ of Black Hawk

BLACK of Jasper

OSTERBERG of Linn

NETT of Black Hawk

HENDERSON of Scott

HARPER of Black Hawk

DVORSKY of Johnson

KREIMAN of Davis

H-3894 FILED APRIL 13, 1993

*Out of Order*  
*4-19-93*

## SENATE FILE 11

H-3867

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, by striking line 7, and inserting the  
5 following:

6 "\_\_\_\_\_. As used in this section, unless the context  
7 otherwise requires:

8 a. "Agricultural":

9 2. Page 1, by inserting after line 13, the  
10 following:

11 "b. "Public use area" means a public land or lake  
12 managed for public recreation and conservation  
13 purposes that is under the jurisdiction of the  
14 department of natural resources or a county.

15 c. "State-designated public use area" means a  
16 public use area which is any of the following:

17 (1) Land within a state park as provided in  
18 chapter 461A.

19 (2) Land within a state preserve as provided in  
20 chapter 465C.

21 (3) A state-owned lake under the jurisdiction of  
22 the natural resource commission.

23 (4) State-owned land developed for recreational  
24 activities such as hiking, camping, picnicking, water  
25 sports, team sports, or winter sports, if the land is  
26 under the jurisdiction of the natural resource  
27 commission. However, a recreational activity does not  
28 include fishing, hunting, or trapping of animals."

29 3. Page 1, by striking lines 40 and 41, and  
30 inserting the following: "limits of a city, land  
31 within a state-designated public use area, or land  
32 within one mile of a state-designated public use  
33 area."

34 4. Page 1, by striking lines 48 and 49, and  
35 inserting the following: "section 414.23, land within  
36 a state-designated public use area, or land within one  
37 mile of a state-designated public use area."

38 5. Page 3, by inserting before line 23, the  
39 following:

40 "\_\_\_\_\_. Upon adopting an ordinance to establish an  
41 agricultural enterprise zone, amend the borders of a  
42 zone, or eliminate the zone, the county board of  
43 supervisors shall deliver a notice to the department  
44 of natural resources according to procedures required  
45 by the department, if the ordinance establishes an  
46 agricultural enterprise zone within two miles from a  
47 state-designated public use area, amends the borders  
48 of an agricultural enterprise zone to locate the zone  
49 within two miles from a state-designated public use  
50 area, amends the borders of an agricultural enterprise

H-3867

H-3867

Page 2

1 zone to locate the zone beyond two miles from the  
2 area, or eliminates an agricultural enterprise zone  
3 located within two miles of a state-designated public  
4 use area."

5 6. By renumbering as necessary.

By SEULTZ of Black Hawk  
HANSEN of Woodbury  
OLLIE of Clinton  
FALLON of Polk  
KOENIGS of Mitchell  
MURPHY of Dubuque  
SCHRADER of Marion  
McKINNEY of Dallas  
OSTERBERG of Linn  
WITT of Black Hawk  
HENDERSON of Scott  
GILL of Woodbury  
HAVERLAND of Polk  
DODERER of Johnson

DVORSKY of Johnson  
RENAUD of Polk  
LUNDBY of Linn  
RUNNING of Linn  
DICKINSON of Jackson  
HARPER of Black Hawk  
HAMMOND of Story  
NEUHAUSER of Johnson  
KREIMAN of Davis  
JOCHUM of Dubuque  
BERNAU of Story  
BAKER of Polk  
WISE of Lee

H-3867 FILED APRIL 12, 1993

*out of Order  
4-19-93  
(P. 1410)*

H-3803

1 Amend Senate File 11, as amended, passed, and re-  
2 printed by the Senate, as follows:

3 1. By striking page 2, line 35, through page 3,  
4 line 22, and inserting the following:

5 "Sec. . . . NEW SECTION. 335.33 NUISANCE SUITS --  
6 RISK MANAGEMENT POOL.

7 1. The owner of agricultural land within an  
8 agricultural enterprise zone as provided in section  
9 335.32, is eligible to participate in a program  
10 creating a risk management pool. The risk management  
11 pool shall serve to reimburse an eligible owner for  
12 costs associated with defending an action or pro-  
13 ceeding involving a claim of nuisance resulting from  
14 an agricultural activity conducted within the  
15 agricultural enterprise zone. The commissioner of  
16 insurance shall adopt rules necessary to assure the  
17 availability of coverage to eligible owners, including  
18 rules relating to the administration of the program,  
19 and the establishment of premiums. The risk manage-  
20 ment pool is not insurance and is not subject to  
21 regulation under chapters 505 through 523C or 523F.

22 2. The owner of agricultural land shall be subject  
23 to risk management pool coverage, unless otherwise  
24 excluded by the commissioner of insurance, for ten  
25 years following the exclusion of the owner's land from  
26 the zone due to the elimination of the".

27 2. Page 3, by striking lines 25 through 29.

By BERNAU of Story

H-3803 FILED APRIL 7, 1993

*out of order  
4-19-93*

## SENATE FILE 11

H-3813

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 3, by inserting before line 23 the  
5 following:

6 " . . . When eliminating an agricultural enterprise  
7 zone, the board of supervisors shall comply with the  
8 notice, hearing, and adoption requirements in section  
9 335.6. The board of supervisors shall conduct a  
10 public hearing on the adoption of a proposed ordinance  
11 eliminating the agricultural enterprise zone. The  
12 board of supervisors shall mail a notice, at least  
13 twenty days before the public hearing on the  
14 ordinance, to all property owners and residents of  
15 land located within the agricultural enterprise zone,  
16 and within two miles outside the current borders of  
17 the agricultural enterprise zone. The public hearing  
18 shall be conducted within sixty days after either of  
19 the following:

20 (1) The date that the board of supervisors  
21 receives a petition requesting adoption of such an  
22 ordinance. The petition must be signed by either at  
23 least twenty percent of the eligible electors who  
24 reside in the agricultural enterprise zone or at least  
25 fifty eligible electors who reside in the agricultural  
26 enterprise zone, whichever is less.

27 (2) The date that the board of supervisors  
28 approves a resolution indicating its intent to  
29 eliminate the boundaries of an agricultural enterprise  
30 zone."

By FOGARTY of Palo Alto  
MERTZ of Kossuth

H-3813 FILED APRIL 8, 1993

*out of order*  
*4-19-93*  
*(P. 1410)*

SENATE FILE 11

H-3966

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:  
4 1. Page 3, line 26, by inserting after the word  
5 "filed" the following: "with the secretary of state  
6 according to procedures required by the secretary of  
7 state. The board shall also cause its description to  
8 be filed".

H-3966 FILED APRIL 14, 1993

By OSTERBERG of Linn

*out of order 4-19-93*

SENATE FILE 11

H-3967

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:  
4 1. Page 1, by striking lines 18 through 20 and  
5 inserting the following: "'enterprise zone."  
6     . An agricultural enterprise zone shall not be  
7 established or amended to include less than five  
8 hundred contiguous acres. However, a smaller  
9 agricultural enterprise zone may exist if the  
10 agricultural enterprise zone is adjacent to an  
11 agricultural area located in the same or a different  
12 county. A smaller agricultural enterprise zone may  
13 also exist if the agricultural enterprise zone is  
14 adjacent to farmland subject to an agricultural land  
15 preservation ordinance located in the same or a  
16 different county, and the agricultural enterprise zone  
17 and the adjacent farmland combine to include at least  
18 five hundred acres."  
19 3. By renumbering as necessary.

*out of order 4-19-93*

By OSTERBERG of Linn  
DVORSKY of Johnson

H-3967 FILED APRIL 14, 1993

SENATE FILE 11

H-3968

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:  
4 1. Page 2, by inserting before line 18 the  
5 following:  
6 "     . In designating land as eligible to be  
7 included within an agricultural enterprise zone, the  
8 board of supervisors shall consider the need to  
9 protect soil from wind and water erosion; encourage  
10 efficient urban development patterns; lessen  
11 congestion on roads; secure safety from fire, flood,  
12 panic, or other dangers; protect the health and  
13 general welfare of persons; provide adequate light and  
14 air; prevent the overcrowding of land; avoid the undue  
15 concentration of population; promote the conservation  
16 of energy resources; facilitate the adequate provision  
17 of transportation, water, sewerage, schools, and  
18 parks; ensure the proper disposal of wastes produced  
19 from livestock; and provide for other public  
20 requirements."  
21 2. By renumbering as necessary.

By OSTERBERG of Linn

H-3968 FILED APRIL 14, 1993

*out of order 4-19-93*

## SENATE FILE 11

H-3976

1 Amend the amendment, H-3673, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 3, by inserting before line 23 the  
5 following:

6 "\_\_\_\_\_. In any hearing required by this section to  
7 adopt an ordinance to establish an agricultural  
8 enterprise zone, or amend the borders of an existing  
9 agricultural enterprise zone, the board of supervisors  
10 shall make available to the public during the hearing  
11 information regarding livestock production facilities  
12 planned to be constructed or expanded in the next  
13 twelve months on land proposed to be included within  
14 the agricultural enterprise zone. The board shall  
15 make available a summary of each pending application  
16 for a permit required to be issued by a city, county,  
17 or the department of natural resources for  
18 constructing or expanding a livestock production  
19 facility on land which is being considered for  
20 inclusion within an agricultural enterprise zone. If  
21 the hearing is conducted because a petition is  
22 submitted to the board requesting the board of  
23 supervisors to adopt an ordinance establishing an  
24 agricultural enterprise zone, or amending the borders  
25 of an agricultural enterprise zone, the petition shall  
26 include the information required in this subsection."

27 2. By renumbering as necessary.

*out of order 4-19-93* By OSTERBERG of Linn  
H-3976 FILED APRIL 14, 1993

## SENATE FILE 11

H-3995

1 Amend Senate File 11, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 3, by inserting after line 14 the  
4 following:

5 "  
6 \_\_\_\_\_. An action or proceeding brought by or on  
7 behalf of a person who holds an interest in land  
8 subject to a nuisance alleged to be caused by an  
9 agricultural activity, if the land is within an  
10 agricultural enterprise zone or within one-half mile  
11 of the borders of the zone, and if the person acquired  
12 an interest in the land prior to when the land where  
13 the agricultural activity is conducted was included  
14 within the agricultural enterprise zone, and the  
15 person's land is used in the same manner that it was  
16 used when the land where the agricultural activity is  
17 conducted was included in the agricultural enterprise  
18 zone."

2. By relettering as necessary.

H-3995 FILED APRIL 15, 1993 By IVERSON of Wright

*out of order 4-19-93*

(P.1410)

SENATE FILE 11

H-4026

1 Amend Senate File 11, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. Section 352.6, unnumbered paragraph 1,  
6 Code 1993, is amended to read as follows:

7 An owner of farmland may submit a proposal to the  
8 county board for the creation of an agricultural area  
9 within the county. An agricultural area, at its  
10 creation, shall include at least ~~five~~ three hundred  
11 acres of farmland, however, a smaller area may be  
12 created if the farmland is adjacent to farmland  
13 subject to an agricultural land preservation ordinance  
14 pursuant to section 335.27. The proposal shall  
15 include a description of the proposed area, including  
16 its boundaries. The territory shall be as compact and  
17 as nearly adjacent as feasible. Land shall not be  
18 included in an agricultural area without the consent  
19 of the owner. Agricultural areas shall not exist  
20 within the corporate limits of the city. Agricultural  
21 areas may be created in a county which has adopted  
22 zoning ordinances. Except as provided in this  
23 section, the use of the land in agricultural areas is  
24 limited to farm operations.

25 Sec. 2. Section 352.9, unnumbered paragraph 2,  
26 Code 1993, is amended to read as follows:

27 The board shall cause the description of that  
28 agricultural area filed with the county auditor and  
29 recorded with the county recorder to be modified to  
30 reflect any withdrawal. Withdrawal shall be effective  
31 on the date of recording. The agricultural area from  
32 which the land is withdrawn shall continue in  
33 existence even if smaller than ~~five~~ three hundred  
34 acres after withdrawal."

35 2. Title page, by striking lines 1 through 3, and  
36 inserting the following: "An Act providing for  
37 agricultural areas."

By EDDIE of Buena Vista  
MEYER of Sac  
KOENIGS of Mitchell  
MERTZ of Kossuth  
WEIGEL of Chickasaw  
HOUSER of Pottawattamie  
HENDERSON of Scott  
BERNAU of Story  
MUNDIE of Webster  
DINKLA of Guthrie  
HAHN of Muscatine  
BRAUNS of Muscatine  
MAY of Worth

BRANSTAD of Winnebago  
GREIG of Emmet  
OSTERBERG of Linn  
VANDE HOEF of Osceola  
FOGARTY of Palo Alto  
GARMAN of Story  
WELTER of Jones  
KLEMME of Plymouth  
GREINER of Washington  
ERTL of Dubuque  
BLODGETT of Cerro Gordo  
RENKEN of Grundy  
WEIDMAN of Cass

H-4026 FILED APRIL 16, 1993

*Adopted  
4-19-93  
(p. 1410)*

H-4051

1 Amend the amendment, H-4026, to Senate File 11, as  
2 amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, line 20, by inserting after the word  
5 "city." the following: "Agricultural areas  
6 established after the effective date of this Act shall  
7 not exist within one mile of the boundaries of any of  
8 the following: a state park as provided in chapter  
9 461A; a state preserve as provided in chapter 465C; a  
10 state-owned lake under the jurisdiction of the natural  
11 resource commission; or state-owned land developed for  
12 recreational activities such as hiking, camping,  
13 picnicking, water sports, team sports, or winter  
14 sports, if the land is under the jurisdiction of the  
15 natural resource commission. However, such a  
16 recreational activity does not include fishing,  
17 hunting, or the trapping of animals."

By SHOULTZ of Black Hawk

H-4051 FILED APRIL 19, 1993

*Lwt* 4-19-93

(P. 1409)

REPORT OF THE CONFERENCE COMMITTEE  
ON SENATE FILE 11

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to resolve the differences between the Senate and the House of Representatives on Senate File 11, a bill for an Act providing for the establishment of agricultural enterprise zones, restricting nuisance suits, and providing for tax exemptions on facilities within such zones, respectfully make the following report:

1. That the House recedes from its amendment, S-3529.
2. That Senate File 11, as amended, passed, and reprinted by the Senate, is amended as follows:

1. By striking everything after the enacting clause and inserting the following:

CCS-11.3

Page 2

"Section 1. Section 352.2, subsection 6, Code 1993, is amended to read as follows:

6. "Farm operation" means a condition or activity which occurs on a farm in connection with the production of farm products and includes but is not limited to the raising, harvesting, drying, or storage of crops; the care or feeding of livestock; the handling or transportation of crops or livestock; the treatment or disposal of wastes resulting from livestock; the marketing of products at roadside stands or farm markets; ~~the~~ the creation of noise, odor, dust, or fumes; ~~the~~ the operation of machinery and irrigation pumps; ~~the~~ the ground and aerial seeding and spraying; ~~the~~ the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; ~~and~~ and the employment and use of labor.

Sec. 2. Section 352.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Livestock" means the same as defined in section 267.1.

Sec. 3. Section 352.6, unnumbered paragraph 1, Code 1993, is amended to read as follows:

An owner of farmland may submit a proposal to the county board for the creation or expansion of an agricultural area within the county. An agricultural area, at its creation, shall include at least ~~five~~ three hundred acres of farmland, however, a smaller area may be created if the farmland is adjacent to farmland subject to an agricultural land preservation ordinance pursuant to section 335.27 or adjacent to land located within an existing agricultural area. The proposal shall include a description of the proposed area to be created or expanded, including its boundaries. The territory shall be as compact and as nearly adjacent as feasible. Land shall not be included in an agricultural area without the consent of the owner. Agricultural areas shall not exist within the corporate limits of ~~the~~ a city. The county board may consult with the department of natural

CCS-11.3

Page 3

resources when creating or expanding an agricultural area contiguous to a location which is under the direct supervision of the department, including a state park, state preserve, state recreation area, or sovereign lake. Agricultural areas may be created in a county which has adopted zoning ordinances. Except as provided in this section, the use of the land in agricultural areas is limited to farm operations.

Sec. 4. Section 352.7, subsection 1, Code 1993, is amended to read as follows:

1. Within thirty days of receipt of a proposal for to create or expand an agricultural area which meets the statutory requirements, the county board shall provide notice of the proposal by publishing notice in a newspaper of general circulation in the county. Within forty-five days after receipt of the proposal, the county board shall hold a public hearing on the proposal.

Sec. 5. Section 352.8, Code 1993, is amended to read as follows:

352.8 REQUIREMENT THAT DESCRIPTION OF AGRICULTURAL AREAS BE FILED WITH THE COUNTY AUDITOR-AND-COUNTY-RECORDER.

Upon the creation or expansion of an agricultural area, its description shall be filed by the county board with the county auditor and placed on record in with the office-of-the recording officer in the county recorder.

Sec. 6. Section 352.9, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The board shall cause the description of that agricultural area filed with the county auditor and recorded-with recording officer in the county recorder to be modified to reflect any withdrawal. Withdrawal shall be effective on the date of recording. The agricultural area from which the land is withdrawn shall continue in existence even if smaller than five three hundred acres after withdrawal.

Sec. 7. Section 352.11, subsection 1, Code 1993, is amended to read as follows:

CCS-11.3

Page 4

## 1. NUISANCE RESTRICTION.

a. A farm or farm operation located in an agricultural area shall not be found to be a nuisance regardless of the established date of operation or expansion of the agricultural activities of the farm or farm operation. ~~The subsection~~ This paragraph shall apply to a farm operation conducted within an agricultural area for six years following the exclusion of land within an agricultural area other than by withdrawal as provided in section 352.9.

b. Paragraph "a" does not apply to a nuisance which is the result of a farm operation determined to be in violation of a federal statute or regulation or state statute or rule. Paragraph "a" does not apply if the nuisance results from the negligent operation of the farm or farm operation. This subsection Paragraph "a" does not apply to actions or proceedings arising from injury or damage to a person or property caused by the farm or a farm operation before the creation of the agricultural area. ~~This subsection~~ Paragraph "a" does not affect or defeat the right of a person to recover damages for an injury or damage sustained by the person because of the pollution or change in condition of the waters of a stream, the overflowing of the person's land, or excessive soil erosion onto another person's land, unless the injury or damage is caused by an act of God.

c. A person shall not bring an action or proceeding based on a claim of nuisance arising from a farm operation unless the person proceeds with mediation as provided in chapter 654B.

d. If a defendant is a prevailing party in an action or proceeding based on a claim of nuisance and arising from a farm operation conducted on farmland within an agricultural area, the plaintiff shall pay court costs and reasonable attorney fees incurred by the defendant, if the court determines that the claim is frivolous."

2. Title page, by striking lines 1 through 3 and

CCS-11.3

Page 5

inserting the following: "An Act relating to agricultural areas."

ON THE PART OF THE SENATE:

ON THE PART OF THE HOUSE:

BERL E. PRIEBE, Chairperson  
BRAD BANKS  
MERLIN E. BARTZ  
EMIL J. HUSAK  
WILLIAM D. PALMER

RUSSELL EDDIE, Chairperson  
JOHN GREIG  
DEO KOENIGS  
RICHARD VANDE HOEF  
KEITH WEIGEL

CCS-11.3 FILED MAY 1, 1993  
ADOPTED

*adopted*  
*5-1-93*

*(P. 1925)*

SEVENTY-FIFTH GENERAL ASSEMBLY  
1993 REGULAR SESSION

DAILY

SENATE CLIP SHEET

APRIL 21, 1993

HOUSE AMENDMENT TO  
SENATE FILE 11

S-3529

1 Amend Senate File 11, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. Section 352.6, unnumbered paragraph 1,  
6 Code 1993, is amended to read as follows:

7 An owner of farmland may submit a proposal to the  
8 county board for the creation of an agricultural area  
9 within the county. An agricultural area, at its  
10 creation, shall include at least ~~five~~ three hundred  
11 acres of farmland, however, a smaller area may be  
12 created if the farmland is adjacent to farmland  
13 subject to an agricultural land preservation ordinance  
14 pursuant to section 335.27. The proposal shall  
15 include a description of the proposed area, including  
16 its boundaries. The territory shall be as compact and  
17 as nearly adjacent as feasible. Land shall not be  
18 included in an agricultural area without the consent  
19 of the owner. Agricultural areas shall not exist  
20 within the corporate limits of the city. Agricultural  
21 areas may be created in a county which has adopted  
22 zoning ordinances. Except as provided in this  
23 section, the use of the land in agricultural areas is  
24 limited to farm operations.

25 Sec. 2. Section 352.9, unnumbered paragraph 2,  
26 Code 1993, is amended to read as follows:

27 The board shall cause the description of that  
28 agricultural area filed with the county auditor and  
29 recorded with the county recorder to be modified to  
30 reflect any withdrawal. Withdrawal shall be effective  
31 on the date of recording. The agricultural area from  
32 which the land is withdrawn shall continue in  
33 existence even if smaller than ~~five~~ three hundred  
34 acres after withdrawal."

35 2. Title page, by striking lines 1 through 3, and  
36 inserting the following: "An Act providing for  
37 agricultural areas."

RECEIVED FROM THE HOUSE

S-3529 FILED APRIL 20, 1993

*Senate Refused*  
4-21-93 (P. 1264)

SSB 4  
AGRICULTURE

TRIEBE, CH.  
HUSAK  
MCLAREN  
BOSWELL  
HEDGE

SENATE FILE Now 11  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON TRIEBE)

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

A BILL FOR

1 An Act providing for the establishment of agricultural enterprise  
2 zones, restricting nuisance suits, and providing for tax  
3 exemptions on facilities within such zones.

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

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1 Section 1. NEW SECTION. 335.32 CREATION OF AGRICULTURAL  
2 ENTERPRISE ZONES.

3 1. A county board of supervisors may by ordinance  
4 designate part of the county as being appropriate for  
5 intensive agricultural activities. This part shall be  
6 referred to as an "agricultural enterprise zone." The land  
7 included within this zone is not required to be contiguous.

8 As used in this section, "agricultural activity" means an  
9 activity directly connected to the raising, drying, or storage  
10 of crops, the care or feeding of livestock as defined in  
11 section 267.1, the handling or transportation of crops or  
12 livestock, or the treatment or disposal of wastes resulting  
13 from livestock.

14 2. In a county that has adopted a zoning ordinance, all of  
15 the land located within the county is eligible to be included  
16 in the agricultural enterprise zone, except for land within  
17 the corporate limits of a city or land within a state park or  
18 state preserve.

19 3. In a county that has not adopted a zoning ordinance,  
20 all of the land within the county is eligible to be included  
21 in the agricultural enterprise zone, except for land within  
22 the corporate limits of a city, land within an area over which  
23 a city has exercised its zoning authority as provided under  
24 section 414.23, or land within a state park or state preserve.

25 4. All of the eligible land may be included in an  
26 agricultural enterprise zone, except to the extent that the  
27 board of supervisors excludes eligible land from the  
28 agricultural enterprise zone because the land is, or is  
29 located in close proximity to, one of the following:

30 a. Land that is unique, and of scientifically recognized  
31 ecological value.

32 b. Towns, residential subdivisions, or other population  
33 centers.

34 c. Locations at which a significant number of people  
35 regularly congregate.

1 The determination by the board of supervisors that land is  
2 in close proximity to a location excluded under this section  
3 shall be a legislative determination.

4 5. The board of supervisors shall conduct a public hearing  
5 on the adoption of a proposed ordinance establishing an  
6 agricultural enterprise zone within sixty days after either of  
7 the following:

8 a. The board of supervisors receives a petition requesting  
9 adoption of such an ordinance. The petition shall specify the  
10 proposed boundaries of the agricultural enterprise zone. The  
11 petition must be signed by at least fifty eligible electors of  
12 the county.

13 b. The board of supervisors approves a resolution  
14 indicating its intent to establish an agricultural enterprise  
15 zone.

16 6. The board of supervisors may amend the boundaries of  
17 the agricultural enterprise zone, rezone areas included within  
18 a zone, or eliminate the agricultural enterprise zone. When  
19 establishing an agricultural enterprise zone, rezoning the  
20 land within the zone, or amending its borders, the board of  
21 supervisors shall comply with the notice, hearing, and  
22 adoption requirements provided in section 335.6. When  
23 establishing such a zone, the board of supervisors shall mail  
24 a notice, at least ten days before the public hearing on the  
25 ordinance, to the owners of any eligible parcel of land having  
26 more than two acres which the board is considering excluding  
27 from the agricultural enterprise zone. When amending the  
28 borders of such a zone, or rezoning land within the zone, the  
29 board of supervisors shall mail this notice to the owners of  
30 any parcel of land within the zone having more than two acres  
31 which the board is considering excluding from the agricultural  
32 enterprise zone.

33 7. Upon the creation of an agricultural enterprise zone,  
34 or the amendment of its borders, the board of supervisors  
35 shall cause its description to be filed with the county

1 auditor and placed on record in the office of the county  
2 recorder.

3 Sec. 2. NEW SECTION. 335.33 NUISANCE RESTRICTIONS WITHIN  
4 AGRICULTURAL ENTERPRISE ZONES.

5 1. Subject to the exceptions in subsection 2, an  
6 agricultural activity located in an agricultural enterprise  
7 zone established pursuant to section 335.32 shall not be found  
8 to be a public or private nuisance regardless of the  
9 established date of operation or expansion of the agricultural  
10 activity.

11 2. This section does not apply to any of the following:

12 a. A public or private nuisance which is the result of an  
13 agricultural activity determined to be in violation of a  
14 federal statute or regulation or state statute or rule.

15 b. An action or proceeding arising from injury or damage  
16 to person or property caused by the agricultural activity  
17 before the creation of the agricultural enterprise zone.

18 c. The right of a person to recover damages for injury or  
19 damage sustained by the person because of the pollution or  
20 change in condition of the waters of a stream, the overflowing  
21 of such waters on the person's land, or excessive soil erosion  
22 onto another person's land.

23 3. This section shall apply to an agricultural activity  
24 for fifteen years following the exclusion of land within an  
25 agricultural enterprise zone due to the elimination of the  
26 zone, the rezoning of the land included in the zone by the  
27 county or a city, or the change in the boundaries of the zone.  
28 This section shall apply to an agricultural activity from the  
29 earliest date of either the filing of an application by or on  
30 behalf of the property owner for a local or state permit  
31 authorizing work related to the activity, or the commencement  
32 of construction of any facility related to the activity.

33 4. As used in this section "agricultural activity" means  
34 the same as defined in section 335.32.

35 Sec. 3. NEW SECTION. 427B.8 PROPERTY TAX EXEMPTION FOR

1 QUALIFIED LIVESTOCK FACILITIES.

2 1. As used in this section, unless the context otherwise  
3 requires:

4 a. "Agricultural enterprise zone" means an agricultural  
5 enterprise zone created pursuant to section 335.32.

6 b. "Livestock" means livestock as defined in section  
7 267.1.

8 c. "Livestock facility" means a building, structure, or  
9 addition to an existing building or structure which is  
10 primarily adapted for providing shelter to or feeding of  
11 livestock.

12 2. The board of supervisors creating an agricultural  
13 enterprise zone may, as part of the ordinance creating the  
14 zone, establish a partial exemption from taxation on the  
15 assessed value of a structure which is constructed or improved  
16 as a livestock facility within the agricultural enterprise  
17 zone, if the construction or improvements occur during the  
18 period when the agricultural enterprise zone exists. The  
19 assessed value of the real estate must be increased by at  
20 least ten percent by the construction or improvement. The  
21 exemption is for a period of ten years, beginning in the year  
22 that the construction or improvement is first assessed for  
23 taxation. The amount of the partial exemption is equal to a  
24 percent of the assessed value added by the construction or  
25 improvements, which shall be determined as follows:

- 26 a. For the first year, one hundred percent.  
27 b. For the second year, one hundred percent.  
28 c. For the third year, one hundred percent.  
29 d. For the fourth year, ninety percent.  
30 e. For the fifth year, eighty-five percent.  
31 f. For the sixth year, eighty-five percent.  
32 g. For the seventh year, eighty-five percent.  
33 h. For the eighth year, eighty-five percent.  
34 i. For the ninth year, eighty-five percent.  
35 j. For the tenth year, eighty-five percent.

1 3. A person may submit an application to the board of  
2 supervisors in the county where the real estate is located and  
3 the agricultural enterprise zone is created. An application  
4 shall be filed for each new exemption claimed. The first  
5 application for an exemption shall be filed by the owner of  
6 the property with the board of supervisors by February 1 of  
7 the assessment year for which the exemption is claimed. The  
8 application shall contain information relating to the  
9 construction or improvement of the livestock facility,  
10 including but not limited to all of the following information:

11 a. The nature of the construction or improvement.

12 b. The date of completion.

13 c. The cost of the construction or improvement.

14 The board shall approve the application, subject to review  
15 by the county assessor. A person is not required to obtain  
16 approval of a previously approved exemption for succeeding  
17 years.

18 4. The county assessor shall review each first-year  
19 application by making a physical review of the property, to  
20 determine if the construction or improvements made increased  
21 the assessed value of the real estate by at least ten percent.  
22 If the county assessor determines that the assessed value of  
23 the real estate has increased by at least ten percent, the  
24 county assessor shall proceed to determine the assessed value  
25 of the property and certify the valuation determined pursuant  
26 to subsection 2 to the county auditor at the time of  
27 transmitting the assessment rolls. The county assessor shall  
28 notify the applicant of the determination, and the assessor's  
29 decision may be appealed to the local board of review as  
30 provided in section 441.37. If an application for an  
31 exemption is denied as a result of a failure to sufficiently  
32 increase the value of the real estate, the owner may file a  
33 first annual application in a subsequent year when additional  
34 improvements are made to satisfy the requirement. After the  
35 tax exemption is granted, the county assessor shall continue

1 to grant the tax exemption, with periodic physical review by  
2 the assessor for the remaining period of the scheduled  
3 exemption.

4

## EXPLANATION

5 This bill provides that a county board of supervisors may  
6 by ordinance designate part of the county as an agricultural  
7 enterprise zone which is appropriate for intensive  
8 agricultural activities. The bill places restrictions on land  
9 eligible to be included within an agricultural enterprise  
10 zone. Land which is not eligible includes land within the  
11 corporate limits of a city, land within an area over which a  
12 city has exercised its zoning authority, or land within a  
13 state park or state preserve. The bill provides that the  
14 board of supervisors must also disqualify land that is of  
15 unique value or where populations of people reside or gather.

16 The bill provides procedures for creating an agricultural  
17 enterprise zone by petition or upon resolution of the board.  
18 The bill establishes procedures for amending the boundaries of  
19 the agricultural enterprise zone, rezoning land within the  
20 zone, or eliminating the zone.

21 The bill provides that an agricultural activity located  
22 within a zone is not a public or private nuisance, unless it  
23 is the result of a violation of federal or state law, it  
24 occurs prior to the creation of the zone, or it results from  
25 pollution, flooding, or excessive soil erosion.

26 Protections against nuisance suits remain in effect for 15  
27 years following the exclusion of land within a zone due to the  
28 elimination of the zone, the rezoning of the land, or a change  
29 in the boundaries of the zone.

30 The bill provides that a board of supervisors creating an  
31 agricultural enterprise zone may establish a partial exemption  
32 from taxation on the assessed value of livestock facilities  
33 constructed or improved within the agricultural enterprise  
34 zone. The bill requires that the assessed value of the real  
35 estate must be increased by at least 10 percent by the

1 construction or improvement. The exemption is for a period of  
2 10 years. The amount of the exemption is equal to a percent  
3 of the assessed value added by the construction or improvement  
4 which equals the following: 100 percent for the first three  
5 years, 90 percent for the fourth year, and 85 percent each  
6 year thereafter. The bill provides procedures for filing an  
7 application to the board to claim the credit. The county  
8 assessor must review each first-year application by making a  
9 physical inspection of the property.

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SENATE FILE 11

AN ACT

RELATING TO AGRICULTURAL AREAS.

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

Section 1. Section 352.2, subsection 6, Code 1993, is amended to read as follows:

6. "Farm operation" means a condition or activity which occurs on a farm in connection with the production of farm products and includes but is not limited to the raising, harvesting, drying, or storage of crops; the care or feeding of livestock; the handling or transportation of crops or livestock; the treatment or disposal of wastes resulting from livestock; the marketing of products at roadside stands or farm markets; the creation of noise, odor, dust, or fumes; the operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

Sec. 2. Section 352.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Livestock" means the same as defined in section 267.1.

Sec. 3. Section 352.6, unnumbered paragraph 1, Code 1993, is amended to read as follows:

An owner of farmland may submit a proposal to the county board for the creation or expansion of an agricultural area within the county. An agricultural area, at its creation, shall include at least five three hundred acres of farmland, however, a smaller area may be created if the farmland is adjacent to farmland subject to an agricultural land preservation ordinance pursuant to section 335.27 or adjacent to land located within an existing agricultural area. The

proposal shall include a description of the proposed area to be created or expanded, including its boundaries. The territory shall be as compact and as nearly adjacent as feasible. Land shall not be included in an agricultural area without the consent of the owner. Agricultural areas shall not exist within the corporate limits of the a city. The county board may consult with the department of natural resources when creating or expanding an agricultural area contiguous to a location which is under the direct supervision of the department, including a state park, state preserve, state recreation area, or sovereign lake. Agricultural areas may be created in a county which has adopted zoning ordinances. Except as provided in this section, the use of the land in agricultural areas is limited to farm operations.

Sec. 4. Section 352.7, subsection 1, Code 1993, is amended to read as follows:

1. Within thirty days of receipt of a proposal for to create or expand an agricultural area which meets the statutory requirements, the county board shall provide notice of the proposal by publishing notice in a newspaper of general circulation in the county. Within forty-five days after receipt of the proposal, the county board shall hold a public hearing on the proposal.

Sec. 5. Section 352.8, Code 1993, is amended to read as follows:

352.8 REQUIREMENT THAT DESCRIPTION OF AGRICULTURAL AREAS BE FILED WITH THE COUNTY AUDITOR AND COUNTY RECORDER.

Upon the creation or expansion of an agricultural area, its description shall be filed by the county board with the county auditor and placed on record in with the office of the recording officer in the county recorder.

Sec. 6. Section 352.9, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The board shall cause the description of that agricultural area filed with the county auditor and recorded with recording

officer in the county recorder to be modified to reflect any withdrawal. Withdrawal shall be effective on the date of recording. The agricultural area from which the land is withdrawn shall continue in existence even if smaller than five three hundred acres after withdrawal.

Sec. 7. Section 352.11, subsection 1, Code 1993, is amended to read as follows:

1. NUISANCE RESTRICTION.

a. A farm or farm operation located in an agricultural area shall not be found to be a nuisance regardless of the established date of operation or expansion of the agricultural activities of the farm or farm operation. ~~The subsection~~ This paragraph shall apply to a farm operation conducted within an agricultural area for six years following the exclusion of land within an agricultural area other than by withdrawal as provided in section 352.9.

b. Paragraph "a" does not apply to a nuisance which is the result of a farm operation determined to be in violation of a federal statute or regulation or state statute or rule. Paragraph "a" does not apply if the nuisance results from the negligent operation of the farm or farm operation. This subsection Paragraph "a" does not apply to actions or proceedings arising from injury or damage to a person or property caused by the farm or a farm operation before the creation of the agricultural area. ~~This subsection~~ Paragraph "a" does not affect or defeat the right of a person to recover damages for an injury or damage sustained by the person because of the pollution or change in condition of the waters of a stream, the overflowing of the person's land, or excessive soil erosion onto another person's land, unless the injury or damage is caused by an act of God.

c. A person shall not bring an action or proceeding based on a claim of nuisance arising from a farm operation unless the person proceeds with mediation as provided in chapter 654B.

d. If a defendant is a prevailing party in an action or proceeding based on a claim of nuisance and arising from a farm operation conducted on farmland within an agricultural area, the plaintiff shall pay court costs and reasonable attorney fees incurred by the defendant, if the court determines that the claim is frivolous.

LEONARD L. BOSWELL  
President of the Senate

HAROLD VAN MAANEN  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 11, Seventy-fifth General Assembly.

JOHN F. DWYER  
Secretary of the Senate

Approved May 20, 1993

TERRY E. BRANSTAD  
Governor