

Senate Amendment 3484

Amendment Text

PAG LIN

1 1 Amend [House File 519](#), as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. Page 1, by inserting before line 1 the
1 4 following:
1 5 "Sec. ____ . Section [13.13](#), subsection 2, Code 1995,
1 6 is amended to read as follows:
1 7 2. The farm assistance program coordinator shall
1 8 contract with a nonprofit organization chartered in
1 9 this state to provide mediation services as provided
1 10 in chapters 654A and 654B.

~~The contract shall be~~

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1 11

~~awarded to the organization by July 1, 1990.~~

- The farm

1 12 assistance program coordinator shall contract with a
1 13 nonprofit organization to provide mediation services
1 14 as provided in chapter 654C based upon a designation
1 15 forwarded by the organic nutrient management board. A
1 16 contract may be terminated by the coordinator upon
1 17 written notice and for good cause. The coordinator
1 18 shall notify the board six months prior to the
1 19 expiration of a contract or ten days prior to the
1 20 termination of a contract involving a nonprofit
1 21 organization providing mediation services as provided
1 22 in chapter 654C. The coordinator shall select an
1 23 organization to provide mediation services under
1 24 chapter 654C, if the coordinator does not receive the
1 25 board's selection in writing within thirty days
1 26 following the board's receipt of the notice of
1 27 expiration or termination of the contract. An
1 28 organization awarded the contract is designated as the
1 29 farm mediation service for the chapter for which the
1 30 organization is to provide mediation services, for the
1 31 duration of the contract.

~~The~~

- An organization may,

1 32 upon approval by the coordinator, provide mediation
1 33 services other than as provided by law. The farm
1 34 mediation service is not a state agency for the
1 35 purposes of chapters 19A, 20, and 669.
1 36 Sec. ____ . Section 13.14, subsections 1 and 2, Code
1 37 1995, are amended to read as follows:
1 38 1. Meetings of

~~the~~

- a farm mediation service are

1 39 closed meetings and are not subject to chapter 21.
1 40 2. Verbal or written information relating to the
1 41 mediation process and transmitted between a party to a
1 42 dispute and

~~the~~

- a farm mediation service, including a

1 43 mediator or the mediation staff, or any other person
1 44 present during any stage of the mediation process
1 45 conducted by

~~the~~

- a service, whether reflected in
1 46 notes, memoranda, or other work products in the case
1 47 files, is a confidential communication. Mediators and
1 48 staff members shall not be examined in any judicial or
1 49 administrative proceeding regarding confidential
1 50 communications and are not subject to judicial or
2 1 administrative process requiring the disclosure of
2 2 confidential communications.
2 3 Sec. _____. Section [13.15](#), unnumbered paragraph 1,
2 4 Code 1995, is amended to read as follows:
2 5

~~The~~

- A farm mediation service providing mediation
2 6 services under chapter 654A or 654B shall recommend
2 7 rules to administer those chapters to the farm
2 8 assistance program coordinator. A mediation service
2 9 providing mediation services under chapter 654C shall
2 10 recommend rules to administer that chapter to the
2 11 organic nutrient management board. The board shall
2 12 submit the recommendations with comments or its own
2 13 recommendations to the farm assistance program
2 14 coordinator. The coordinator shall adopt rules
2 15 pursuant to chapter 17A to set the compensation of
2 16 mediators and to implement this subchapter and
2 17 chapters 654A and 654B.
2 18 Sec. _____. Section [13.16](#), Code 1995, is amended to
2 19 read as follows:
2 20 13.16 LIMITATION ON LIABILITY & IMMUNITY FROM
2 21 SPECIAL ACTIONS.
2 22 1. A member of

~~the~~

- a farm

~~mediation~~

- mediation's
2 23 staff, including a mediator, employee, or agent of the
2 24 service, or member of a board for the service, is not
2 25 liable for civil damages for a statement or decision
2 26 made in the process of mediation, unless the member
2 27 acts in bad faith, with malicious purpose, or in a
2 28 manner exhibiting willful and wanton disregard of
2 29 human rights, safety, or property.
2 30 2. A judicial action which seeks an injunction,
2 31 mandamus, or similar equitable relief shall not be
2 32 brought against

~~the~~

- a farm mediation service,
2 33 including a mediator, employee, or agent of the
2 34 service, or a member of a board for the service until
2 35 completion of the mediation process."
2 36 #2. Page 1, by striking lines 6 through 11 and
2 37 inserting the following: "feet from a designated
2 38 area, unless one of the following applies:
2 39 1. The manure is applied by injection or
2 40 incorporation within twenty-four hours following the
2 41 application.
2 42 2. An area of permanent vegetation cover exists
2 43 for fifty feet surrounding the designated area and
2 44 that area is not subject to manure application.

2 45 As used in this section, "designated area" means a
2 46 known sinkhole, or a cistern, abandoned well,
2 47 unplugged agricultural drainage well, agricultural
2 48 drainage well surface inlet, drinking water well, or
2 49 lake, or a farm pond, or privately owned lake as
2 50 defined in section 462A.2. However, a "designated
3 1 area" does not include a terrace tile outlet."
3 2 #3. Page 1, line 14, by striking the words "an
3 3 animal" and inserting the following: "a confinement".
3 4 #4. Page 1, by inserting after line 23 the
3 5 following:
3 6 "1A. "Animal weight capacity" means the same as
3 7 defined in section 455B.161."
3 8 #5. Page 2, by striking line 2 and inserting the
3 9 following: "subject to a construction permit issued
3 10 by the".
3 11 #6. Page 2, line 25, by striking the word and
3 12 figure "section 455B.191" and inserting the following:
3 13 "chapter 455B".
3 14 #7. Page 2, line 25, by striking the words
3 15 "required to" and inserting the following: "who".
3 16 #8. Page 3, line 1, by inserting after the words
3 17 "related to" the following: "cleaning up the site of
3 18 the confinement feeding operation, including".
3 19 #9. Page 3, line 4, by striking the word "two" and
3 20 inserting the following: "one".
3 21 #10. Page 3, line 29, by striking the words "five
3 22 hundred thousand" and inserting the following: "one
3 23 million".
3 24 #11. Page 4, by striking lines 3 through 6 and
3 25 inserting the following: "The amount of the fees
3 26 shall be based on the following:
3 27 1. If the animal feeding operation has an animal
3 28 weight capacity of less than six hundred twenty-five
3 29 thousand pounds, the following shall apply:
3 30 a. For all animals other than poultry, the amount
3 31 of the fee shall be five cents per animal unit of
3 32 capacity for confinement feeding operations.
3 33 b. For poultry, the amount of the fee shall be two
3 34 cents per animal unit of capacity for confinement
3 35 feeding operations.
3 36 2. If the animal feeding operation has an animal
3 37 weight capacity of six hundred twenty-five thousand or
3 38 more pounds but less than one million two hundred
3 39 fifty thousand pounds, the following shall apply:
3 40 a. For all animals other than poultry, the amount
3 41 of the fee shall be seven and one-half cents per
3 42 animal unit of capacity for confinement feeding
3 43 operations.
3 44 b. For poultry, the amount of the fee shall be
3 45 three cents per animal unit of capacity for
3 46 confinement feeding operations.
3 47 3. If the animal feeding operation has an animal
3 48 weight capacity of one million two hundred fifty
3 49 thousand or more pounds, the following shall apply:
3 50 a. For all animals other than poultry, the amount
4 1 of the fee shall be ten cents per animal unit of
4 2 capacity for confinement feeding operations.
4 3 b. For poultry, the amount of the fee shall be
4 4 four cents per animal unit of capacity for confinement
4 5 feeding operations.
4 6 The".
4 7 #12. Page 4, line 14, by inserting after the words
4 8 "costs of" the following: "cleaning up the site of
4 9 the confinement feeding operation, including the costs
4 10 of".
4 11 #13. Page 4, line 32, by striking the word "fifty"

4 12 and inserting the following: "one hundred".
4 13 #14. Page 4, by striking lines 33 and 34 and
4 14 inserting the following: "percent of the claim, as
4 15 provided in this section. If".
4 16 #15. Page 5, by inserting after line 25 the
4 17 following:
4 18 "Sec. ____ . NEW SECTION. 204.4A MANURE REMOVAL.
4 19 A county which has acquired real estate containing
4 20 a confinement feeding operation structure, as defined
4 21 in section 455B.161, following the nonpayment of taxes
4 22 pursuant to section 446.19, may remove and dispose of
4 23 the manure at any time, and seek reimbursement for the
4 24 costs of the removal and disposal from the person
4 25 abandoning the real estate.
4 26 #16. Page 5, by inserting after line 33 the
4 27 following:
4 28 "Sec. ____ . Section 260E.3, Code 1995, is amended
4 29 by adding the following new subsection:
4 30 NEW SUBSECTION. 6. After August 31, 1995, a
4 31 community college shall not enter into an agreement
4 32 for a project which includes program services for
4 33 employees of a confinement feeding operation as
4 34 defined in section 455B.161.
4 35 Sec. ____ . NEW SECTION. 455A.7A ORGANIC NUTRIENT
4 36 MANAGEMENT BOARD.
4 37 1. An organic nutrient management board is
4 38 established. Sections 69.16 and 69.16A apply to the
4 39 composition of the board. Members shall be entitled
4 40 to receive per diem as provided in section 7E.6 and
4 41 actual expenses.
4 42 2. The board shall consist of the following:
4 43 a. The following persons appointed as voting
4 44 members by the governor:
4 45 (1) Four persons actively engaged in agricultural
4 46 production. Each person must be a member of a
4 47 commodity organization or association which represents
4 48 agricultural producers generally.
4 49 (2) One person who is interested in environmental
4 50 quality issues. The person must be a member of an
5 1 association or organization interested in the
5 2 protection or preservation of the natural environment.
5 3 b. The following persons who shall serve as voting
5 4 members:
5 5 (1) The director of the soil conservation division
5 6 of the department of agriculture and land stewardship
5 7 or a designee.
5 8 (2) The chairperson of the Iowa business council
5 9 or a designee.
5 10 c. The following persons who shall serve as ex
5 11 officio nonvoting members:
5 12 (1) A designee of the state office of the natural
5 13 resources conservation service of the United States
5 14 department of agriculture, upon request by the
5 15 governor.
5 16 (2) The director of the department of natural
5 17 resources or the director's designee.
5 18 (3) The dean of the college of agriculture at Iowa
5 19 state university or the dean's designee.
5 20 (4) Four members of the general assembly two of
5 21 whom are state senators, one appointed by the
5 22 president of the senate, after consultation with the
5 23 majority leader of the senate, and one appointed by
5 24 the minority leader of the senate, after consultation
5 25 with the president of the senate, from their
5 26 respective parties; and two of whom are state
5 27 representatives appointed by the speaker of the house,
5 28 one from the majority party after consultation with

5 29 the majority leader of the house and one from the
5 30 minority party after consultation with the minority
5 31 leader of the house.

5 32 3. The department shall furnish the board with a
5 33 meeting place, staff, and all articles, supplies, and
5 34 services necessary to enable the board to perform its
5 35 duties.

5 36 4. The members appointed by the governor shall
5 37 serve three-year terms beginning and ending as
5 38 provided in section 69.19. However, the governor
5 39 shall appoint some initial members to serve for less
5 40 than three years to ensure members serve staggered
5 41 terms. A member appointed by the governor is eligible
5 42 for reappointment. However, a member shall not serve
5 43 for more than two full consecutive terms. A vacancy
5 44 on the board shall be filled for the unexpired portion
5 45 of the regular term in the same manner as regular
5 46 appointments are made. The board shall elect a
5 47 chairperson each year and meet at least once every
5 48 three months, and at the call of the chairperson or
5 49 upon the written request to the chairperson of three
5 50 or more voting members. Written notice of the time
6 1 and place of the meeting shall be given to each
6 2 member. Four voting members constitute a quorum and
6 3 the affirmative vote of a majority of the voting
6 4 members present is necessary for any substantive
6 5 action to be taken by the board, except that a lesser
6 6 number may adjourn a meeting. The majority shall not
6 7 include any member who has a conflict of interest and
6 8 a statement by a member that the member has a conflict
6 9 of interest is conclusive for this purpose. A vacancy
6 10 in the membership does not impair the duties of the
6 11 board.

6 12 5. The board shall do all of the following:

6 13 a. Advise the department and the environmental
6 14 protection commission regarding manure management
6 15 practices.

6 16 b. Study the effects of animal feeding operations
6 17 and recommend to the department and commission
6 18 solutions and policy or regulatory alternatives
6 19 relating to animal feeding operations, including
6 20 recommendations for rulemaking by the department
6 21 pursuant to chapter 17A or recommendations to the
6 22 general assembly.

6 23 c. Designate to the farm assistance program
6 24 coordinator as provided in section 13.13, a nonprofit
6 25 organization to provide mediation services under
6 26 chapter 654C. The board shall consider designating
6 27 the farm mediation service selected by the farm
6 28 assistance program coordinator to provide mediation
6 29 services under chapters 654A and 654B. The board
6 30 shall forward its designation to the farm assistance
6 31 program coordinator not later than thirty days
6 32 following the board's receipt of a notice by the
6 33 coordinator of the expiration or termination of a
6 34 contract with a nonprofit organization providing
6 35 mediation services under chapter 654C.

6 36 d. Consider rules submitted by a farm mediation
6 37 service to the board, and make comments or further
6 38 recommendations which shall be submitted to the farm
6 39 assistance program coordinator pursuant to section
6 40 13.15.

6 41 e. Provide other information or perform other
6 42 duties which may be of assistance to animal feeding
6 43 operations.

6 44 Sec. _____. Section 455B.109, subsection 4, Code
6 45 1995, is amended to read as follows:

6 46 4. All civil penalties assessed by the department
6 47 and interest on the penalties shall be deposited in
6 48 the general fund of the state. However, civil
6 49 penalties assessed by the department and interest on
6 50 the penalties, arising out of violations imposed upon
7 1 a person obtaining a permit for the construction of an
7 2 animal feeding operation, as provided in division II,
7 3 part 2, shall be deposited in the manure storage
7 4 indemnity fund as created in section 204.2. Civil
7 5 penalties assessed by the department and interest on
7 6 the penalties arising out of a violation imposed upon
7 7 a person obtaining a permit for an animal feeding
7 8 operation as provided in division III, which may be
7 9 assessed pursuant to section 455B.191, shall be
7 10 deposited in the manure storage indemnity fund as
7 11 created in section 204.2.

7 12 Sec. _____. NEW SECTION. 455B.110 ANIMAL FEEDING
7 13 OPERATIONS & COMMISSION APPROVAL.

7 14 The department shall not initiate an enforcement
7 15 action in response to a violation by an animal feeding
7 16 operation as provided in this chapter or a rule
7 17 adopted pursuant to this chapter, or request the
7 18 commencement of legal action by the attorney general
7 19 pursuant to section 455B.141, unless the commission
7 20 has approved the intended action. This section shall
7 21 not apply to an order to terminate an emergency issued
7 22 by the director pursuant to section 455B.175."

7 23 #17. Page 6, line 30, by striking the words
7 24 "SEPARATION DISTANCE" and inserting the following:
7 25 "ANIMAL FEEDING OPERATIONS".

7 26 #18. Page 6, line 30, by inserting after the word
7 27 "PART" the following: "2".

7 28 #19. Page 7, line 25, by inserting after the word
7 29 "storage." the following: "An animal feeding
7 30 operation does not include a livestock market."

7 31 #20. By striking page 7, line 32, through page 8,
7 32 line 6, and inserting the following:

7 33 "____. "Commercial enterprise" means a building
7 34 which is used as a part of a business that
7 35 manufactures goods, delivers services, or sells goods
7 36 or services, which is customarily and regularly used
7 37 by the general public during the entire calendar year
7 38 and which is connected to utility services, which may
7 39 include electric, water, or sewer services. A
7 40 commercial enterprise does not include a farm
7 41 operation."

7 42 #21. Page 8, line 22, by striking the word "twice"
7 43 and inserting the following: "once".

7 44 #22. Page 8, line 35, by inserting after the word
7 45 "manure" the following: "from a confinement feeding
7 46 operation".

7 47 #23. Page 9, by inserting after line 2 the
7 48 following:

7 49 "____. "Livestock market" means any place where
7 50 animals are assembled from two or more sources for
8 1 public auction, private sale, or on a commission
8 2 basis, which is under state or federal supervision,
8 3 including a livestock sale barn or auction market, if
8 4 such animals are kept for ten days or less."

8 5 #24. Page 9, by striking lines 6 through 8 and
8 6 inserting the following:

8 7 "____. "Public use area" means an area within a
8 8 park owned by the state or by a political subdivision,
8 9 with facilities which attract the public to congregate
8 10 and remain in the area for significant periods of
8 11 time, including but not limited to picnic grounds,
8 12 campgrounds, lodges, shelter houses, and swimming

8 13 beaches."

8 14 #25. Page 9, by inserting after line 11 the
8 15 following:

8 16 "17. "Small animal feeding operation" means an
8 17 animal feeding operation which has an animal weight
8 18 capacity of two hundred thousand pounds or less for
8 19 animals other than beef cattle, or four hundred
8 20 thousand pounds or less for beef cattle."

8 21 #26. By striking page 9, line 25, through page 10,
8 22 line 13, and inserting the following:

8 23	"Minimum separation	
8 24	distance in feet	Minimum separation
8 25	for operations	distance in feet
8 26	having an animal	for operations
8 27	weight capacity	having an animal
8 28	of less than	weight capacity of
8 29	1,250,000 pounds	1,250,000 or more
8 30	for animals other	pounds for animals
8 31	than beef cattle,	other than beef
8 32	or less than	cattle, or 3,200,000
8 33	3,200,000 pounds	or more pounds for
8 34	for beef cattle	beef cattle

8 35 Type of structure

8 36 Anaerobic lagoon	1,250	2,500
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8 37 Uncovered earthen manure

8 38 storage basin	1,250	2,500
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8 39 Uncovered formed manure

8 40 storage structure	1,000	2,000
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8 41 Covered earthen manure

8 42 storage basin	750	1,500
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8 43 Covered formed manure

8 44 storage structure	750	1,500
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8 45 Confinement building	750	1,500
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8 46 Egg washwater storage

8 47 structure	750	1,500"
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8 48 #27. Page 10, line 16, by inserting after the word

8 49 "or" the following: "a residence not owned by the

8 50 owner of the animal feeding operation, a commercial

9 1 enterprise, a bona fide religious institution, or an

9 2 educational institution located within".

9 3 #28. Page 10, by striking lines 18 through 31 and

9 4 inserting the following:

9 5	"Minimum separation	
9 6	distance in feet	Minimum separation
9 7	for operations	distance in feet
9 8	having an animal	for operations
9 9	weight capacity	having an animal
9 10	of less than	weight capacity of
9 11	1,250,000 pounds	1,250,000 or more
9 12	for animals other	pounds for animals
9 13	than beef cattle,	other than beef
9 14	or less than	cattle, or 3,200,000
9 15	3,200,000 pounds	or more pounds for
9 16	for beef cattle	beef cattle

9 17

9 18 Type of structure

9 19 Animal feeding

9 20 operation structure	1,250	2,500".
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9 21 #29. Page 11, line 34, by striking the words "An

9 22 animal feeding operation" and inserting the following:

9 23 "A confinement feeding operation structure".

9 24 #30. Page 12, by striking lines 3 and 4 and

9 25 inserting the following: "confinement feeding

9 26 operation which qualifies as a small animal feeding

9 27 operation."

9 28 #31. Page 12, line 28, by inserting after the word

9 29 "institution," the following: "commercial

9 30 enterprise".

9 31 #32. Page 12, line 29, by inserting before the
9 32 word "religious" the following: "bona fide".

9 33 #33. Page 12, line 30, by inserting after the
9 34 words "educational institution," the following:
9 35 "commercial enterprise,".

9 36 #34. Page 12, line 30, by inserting before the
9 37 word "religious" the following: "bona fide".

9 38 #35. Page 13, by inserting after line 2 the the
9 39 following:
9 40 "Sec. ____ NEW SECTION. 455B.166 PUBLIC
9 41 HEARINGS.
9 42 The city, upon request, shall hold a public hearing
9 43 of residents who are affected by the construction or
9 44 expansion of the animal feeding operation within the
9 45 corporate limits of the city. A county, upon request,
9 46 shall hold a public hearing of residents who are
9 47 affected by the construction or expansion of an animal
9 48 feeding operation within the county. The hearing
9 49 shall be held within thirty days of a request for a
9 50 public hearing by a resident. The city or county
10 1 shall provide ten days' advance notice of the date,
10 2 time, and location of the public hearing."

10 3 #36. Page 13, line 13, by inserting after the word
10 4 "disposal." the following: "An animal feeding
10 5 operation does not include a livestock market as
10 6 defined in section 455B.161."

10 7 #37. Page 13, by inserting after line 13 the
10 8 following:
10 9 "NEW SUBSECTION. 1B. "Animal weight capacity"
10 10 means the same as defined in section 455B.161."

10 11 #38. Page 13, by inserting after line 20 the
10 12 following:
10 13 "NEW SUBSECTION. 23A. "Small animal feeding
10 14 operation" means the same as defined in section
10 15 455B.161."

10 16 #39. Page 14, line 13, by inserting after the word
10 17 "operations." the following: "The department shall
10 18 not require that a person obtain a permit for the
10 19 construction of an animal feeding operation structure,
10 20 if the structure is part of a small animal feeding
10 21 operation."

10 22 #40. Page 14, line 18, by striking the words "the
10 23 construction of".

10 24 #41. Page 14, line 22, by inserting after the word
10 25 "permit." the following: "The department shall make a
10 26 determination regarding the approval or denial of a
10 27 permit within sixty days from the date that the
10 28 department receives a completed application for a
10 29 permit."

10 30 #42. Page 14, by striking lines 23 through 33.

10 31 #43. Page 15, line 14, by striking the word
10 32 "offense" and inserting the following: "violation".

10 33 #44. Page 15, line 14, by striking the word
10 34 "animal" and inserting the following: "confinement".

10 35 #45. Page 15, line 17, by striking the word
10 36 "offender" and inserting the following: "violation".

10 37 #46. Page 15, line 19, by striking the word
10 38 "offender" and inserting the following: "violation".

10 39 #47. Page 15, line 20, by striking the word
10 40 "offender" and inserting the following: "violation".

10 41 #48. Page 15, line 22, by striking the word
10 42 "offenders" and inserting the following: "violators".

10 43 #49. Page 15, line 30, by striking the word
10 44 "offender" and inserting the following: "violation".

10 45 #50. Page 15, line 31, by inserting after the word
10 46 "each" the following: "subsequent violation for

10 47 each".
10 48 #51. Page 15, line 31, by striking the word
10 49 "offense" and inserting the following: "violation".
10 50 #52. Page 15, line 33, by striking the word
11 1 "offender" and inserting the following: "violation".
11 2 #53. Page 15, line 33, by striking the word
11 3 "offenses" and inserting the following: "violations".
11 4 #54. Page 15, line 34, by striking the words
11 5 "prior to or".
11 6 #55. Page 16, line 2, by striking the words
11 7 "offense, counting any offense" and inserting the
11 8 following: "violation, counting any violation".
11 9 #56. Page 16, line 5, by striking the word
11 10 "offender" and inserting the following: "violation".
11 11 #57. Page 16, line 6, by striking the word
11 12 "animal" and inserting the following: "confinement".
11 13 #58. Page 16, line 8, by striking the word
11 14 "offenses" and inserting the following: "violations".
11 15 #59. Page 16, line 9, by striking the word
11 16 "offenses" and inserting the following: "violations".
11 17 #60. Page 16, line 10, by striking the word
11 18 "offense" and inserting the following: "violation".
11 19 #61. Page 16, line 11, by striking the word
11 20 "offense" and inserting the following: "violation".
11 21 #62. Page 16, line 11, by striking the word
11 22 "offenses" and inserting the following: "violations".
11 23 #63. Page 16, by striking line 12 and inserting
11 24 the following: "separate violations regardless of
11 25 whether the violations were".
11 26 #64. Page 16, line 13, by striking the word
11 27 "offense" and inserting the following: "violation".
11 28 #65. Page 17, line 14, by striking the word
11 29 "offender" and inserting the following: "violation".
11 30 #66. Page 17, line 18, by striking the words
11 31 "required to obtain" and inserting the following:
11 32 "obtaining".
11 33 #67. Page 17, line 29, by inserting after the word
11 34 "surface" the following: "water".
11 35 #68. Page 17, line 30, by inserting before the
11 36 word "this" the following: "the provisions of state
11 37 law, including".
11 38 #69. Page 17, by inserting after line 34 the
11 39 following:
11 40 "____. The owner of the confinement feeding
11 41 operation which discontinues the use of the operation
11 42 shall remove all manure from related confinement
11 43 feeding operation structures used to store manure, by
11 44 a date specified in an order issued to the operation
11 45 by the department of natural resources, or six months
11 46 following the date that the confinement feeding
11 47 operation is discontinued, whichever is earlier."
11 48 #70. By striking page 17, line 35, through page
11 49 19, line 33, and inserting the following:
11 50 "Sec. ____ NEW SECTION. 455B.202 MANURE
12 1 MANAGEMENT PLAN – REQUIREMENTS.
12 2 1. In order to receive a permit for the
12 3 construction of a confinement feeding operation as
12 4 provided in section 455B.173, a person shall submit a
12 5 manure management plan to the department together with
12 6 the application for a construction permit.
12 7 2. A manure management plan shall include all of
12 8 the following:
12 9 a. Calculations necessary to determine the land
12 10 area required for the application of manure from a
12 11 confinement feeding operation based on nitrogen use
12 12 levels in order to obtain optimum crop yields
12 13 according to a crop schedule specified in the plan,

12 14 and according to requirements adopted by the
12 15 department after receiving recommendations from the
12 16 organic nutrient management advisory board established
12 17 pursuant to section 455A.7A.

12 18 b. Manure nutrient levels as determined by either
12 19 manure testing or accepted standard manure nutrient
12 20 values.

12 21 c. Manure application methods, timing of manure
12 22 application, and the location of the manure
12 23 application.

12 24 d. If the location of the application is on land
12 25 other than land owned by the person applying for the
12 26 construction permit, the plan shall include a copy of
12 27 each written agreement executed between the person and
12 28 the landowner where the manure will be applied.

12 29 e. An estimate of the annual livestock production
12 30 and manure volume or weight produced by the
12 31 confinement feeding operation.

12 32 f. Methods, structures, or practices to prevent or
12 33 diminish soil loss and potential surface water
12 34 pollution.

12 35 g. Methods or practices to minimize potential
12 36 odors caused by the application of manure by the use
12 37 of spray irrigation equipment.

12 38 3. A person classified as a habitual violator or a
12 39 confinement feeding operation in which a habitual
12 40 violator owns a controlling interest, as provided in
12 41 section 455B.191, shall submit a manure management
12 42 plan to the department on an annual basis, which must
12 43 be approved by the department for the following year
12 44 of operation."

12 45 #71. Page 20, line 17, by striking the word
12 46 "offender" and inserting the following: "violator".

12 47 #72. Page 20, line 23, by striking the words
12 48 "required to submit" and inserting the following:
12 49 "submitting".

12 50 #73. Page 21, by striking lines 8 through 11 and
13 1 inserting the following: "known sinkhole, or a
13 2 cistern, abandoned well, unplugged agricultural
13 3 drainage well, agricultural drainage well surface
13 4 inlet, drinking water well, or lake, or a farm pond or
13 5 privately owned lake as defined in section 462A.2."

13 6 #74. Page 21, by inserting before line 12 the
13 7 following:

13 8 "Sec. ____ . NEW SECTION. 654C.1 DEFINITIONS.

13 9 As used in this chapter, unless otherwise required:

13 10 1. "Animal feeding operation structure" means the
13 11 same as defined in section 455B.161.

13 12 2. "Dispute" means a controversy between a
13 13 permittee and a neighbor, which arises from
13 14 negotiations between the parties to establish an
13 15 animal feeding operation structure within the
13 16 separation distance.

13 17 3. "Farm mediation service" means the organization
13 18 selected pursuant to section 13.13.

13 19 4. "Neighbor" means a person benefiting from a
13 20 separation distance required pursuant to section
13 21 455B.162, including a person owning a residence other
13 22 than the owner of the animal feeding operation, a
13 23 commercial enterprise, bona fide religious
13 24 institution, educational institution, or a city,
13 25 authorized to execute a waiver.

13 26 5. "Participate" or "participation" means
13 27 attending a mediation meeting, and having knowledge
13 28 about and discussing issues concerning a subject
13 29 relating to a dispute.

13 30 6. "Permittee" means a person obtaining a permit

13 31 for the construction of an animal feeding operation
13 32 structure as provided in section 455B.173.

13 33 7. "Waiver" means a waiver executed between a
13 34 permittee and a neighbor as provided in section
13 35 455B.165.

13 36 Sec. ____ NEW SECTION. 654C.2 MEDIATION
13 37 PROCEEDINGS.

13 38 1. A person who is a permittee or a neighbor may
13 39 file a request for mediation with the farm mediation
13 40 service. Upon receipt of the request for mediation,
13 41 the farm mediation service shall conduct an initial
13 42 consultation with each party to the dispute privately
13 43 and without charge. Mediation shall be cancelled
13 44 after the initial consultation, unless both parties
13 45 agree to proceed.

13 46 2. Both parties to the dispute shall file with the
13 47 farm mediation service information required by the
13 48 service to conduct mediation.

13 49 3. Unless mediation is cancelled, within twenty-
13 50 one days after receiving a mediation request, the farm
14 1 mediation service shall send a mediation meeting
14 2 notice to all parties to the dispute setting a time
14 3 and place for an initial mediation meeting between the
14 4 parties and a mediator directed by the farm mediation
14 5 service to assist in mediation. An initial mediation
14 6 meeting shall be held within twenty-one days of the
14 7 issuance of the mediation meeting notice.

14 8 Sec. ____ NEW SECTION. 654C.3 DUTIES OF THE
14 9 MEDIATOR.

14 10 At the initial mediation meeting and subsequent
14 11 meetings, the mediator shall:

14 12 1. Listen to all involved parties.

14 13 2. Attempt to mediate between all involved
14 14 parties.

14 15 3. Encourage compromise and workable solutions.

14 16 4. Advise, counsel, and assist the parties in
14 17 attempting to arrive at an agreement for the future
14 18 conduct of relations among themselves.

14 19 Sec. ____ NEW SECTION. 654C.4 MEDIATION PERIOD.

14 20 The mediator may call mediation meetings during the
14 21 mediation period, which is up to forty-two days after
14 22 the farm mediation service received the mediation
14 23 request. However, if all parties consent, mediation
14 24 may continue after the end of the mediation period.

14 25 Sec. ____ NEW SECTION. 654C.5 MEDIATION
14 26 AGREEMENT.

14 27 1. If an agreement is reached between all parties,
14 28 the mediator shall draft a written mediation
14 29 agreement, which shall be signed by the parties. The
14 30 mediation release shall provide for a waiver which the
14 31 mediator shall file in the office of the recorder of
14 32 deeds of the county in which the benefited land is
14 33 located, as provided in section 455B.165. The
14 34 mediator shall forward a mediation agreement to the
14 35 farm mediation service.

14 36 2. The parties shall participate in at least one
14 37 mediation meeting. A party to a dispute may be
14 38 represented by another person, if the person
14 39 participates in mediation and has authority to discuss
14 40 the dispute on behalf of the party being represented.
14 41 This section does not require a party to reach an
14 42 agreement. This section does not require a person to
14 43 change a position, alter an activity which is a
14 44 subject of the dispute, alter an application for a
14 45 permit for construction of an animal feeding
14 46 operation, or restructure a contract.

14 47 3. The parties to the mediation agreement may

14 48 enforce the mediation agreement as a legal contract.

14 49 4. If the parties do not agree to proceed with
14 50 mediation, or if a mediation agreement is not reached,
15 1 the parties may sign a statement prepared by the
15 2 mediator that mediation proceedings were not conducted
15 3 or concluded or that the parties did not reach an
15 4 agreement.

15 5 Sec. _____. NEW SECTION. 654C.6 EXTENSION OF
15 6 DEADLINES.

15 7 Upon petition by all parties, the farm mediation
15 8 service may, for good cause, extend a deadline imposed
15 9 by section 654B.2 or 654B.4 for up to thirty days.

15 10 Sec. _____. NEW SECTION. 654C.7 EFFECT OF
15 11 MEDIATION.

15 12 An interest in property or rights and obligations
15 13 under a contract are not affected by the failure of a
15 14 person to obtain a mediation agreement."

15 15 #75. Page 21, line 26, by striking the words "the
15 16 construction of".

15 17 #76. Page 21, line 33, by inserting after the word
15 18 "voluntarily." the following: "However, if a person
15 19 submits a manure management plan as required pursuant
15 20 to section 455B.203 for a small animal feeding
15 21 operation, the person is not required to obtain a
15 22 permit as provided in section 455B.173 in order to
15 23 enjoy the same nuisance suit protection."

15 24 #77. Page 22, line 14, by striking the words "of
15 25 water".

15 26 #78. By striking page 22, line 31, through page
15 27 23, line 15.

15 28 #79. Page 25, line 4, by striking the word
15 29 "Seventy-fifth" and inserting the following:
15 30 "Seventy-sixth".

15 31 #80. Page 25, line 16, by striking the word
15 32 "shall" and inserting the following: "may".

15 33 #81. Page 25, line 19, by inserting after the
15 34 figure "266.39." the following: "The identity of the
15 35 ten animal feeding operations shall be confidential
15 36 and not subject to chapter 22. The findings of the
15 37 study shall not be used in a case or proceeding
15 38 brought against a person based upon a violation of
15 39 state law."

15 40 #82. Page 25, by inserting after line 21, the
15 41 following:

15 42 "Sec. _____. INTERIM STUDY COMMITTEE – LIVESTOCK
15 43 PRODUCTION.

15 44 1. The legislative council is requested to
15 45 establish an interim study committee to examine the
15 46 practices engaged in by packers, processors, and
15 47 buyers, including persons regulated by the grain
15 48 inspection, packers and stockyards administration,
15 49 United States department of agriculture, under the
15 50 federal Packers and Stockyards Act of 1921, as
16 1 amended, 21 U.S.C. } 181, et seq. The interim
16 2 committee shall study the following issues:

16 3 a. The increasing degree of vertical integration
16 4 of the livestock market by packers and processors,
16 5 including threats to economic competition, independent
16 6 production, and consumer protection.

16 7 b. Market practices engaged in by packers,
16 8 processors, or buyers which increasingly threaten open
16 9 and fair markets, by establishing arbitrary and
16 10 inconsistent pricing without public disclosure or
16 11 price discovery mechanisms, including price
16 12 differences based on the time of delivery, transaction
16 13 volume, and private pricing arrangements under
16 14 contract.

16 15 2. The interim committee shall hold a public
16 16 hearing in each congressional district.
16 17 3. The interim committee shall report its findings
16 18 and recommendations to the general assembly not later
16 19 than the first day of the 1996 legislative session,
16 20 unless another date is established by the legislative
16 21 council."
16 22 #83. By renumbering, relettering, or redesignating
16 23 and correcting internal references as necessary.
16 24
16 25
16 26 _____
16 27 COMMITTEE ON [AGRICULTURE](#)
16 28 BERL E. PRIEBE, Chairperson
16 29 [HF 519](#).334 76
16 30 da/cf