

MAR 2 1992

HOUSE FILE 2343  
BY COMMITTEE ON AGRICULTURE

Place On Calendar

(SUCCESSOR TO HSB 512)

Passed House, Date 3/4/92 (p. 496)

Passed Senate, Date 4/9/92 (p. 1317)

Vote: Ayes 94 Nays 0

Vote: Ayes 47 Nays 0

Approved April 29, 1992

*Motion to Reconsider (p. 492)  
prevented 3/16*

*Re-passed House 4/7/92*

*Re-passed House 2/16/92 (p. 60)  
Ayes 93, Nays 0*

A BILL FOR

*Ayes 92 - Nays 3  
Motion to Reconsider lost 4/20*

1 An Act relating to soil and water conservation by providing for  
2 financial incentives.

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

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1 Section 1. Section 99E.34, subsection 2, paragraphs a and  
2 b, Code Supplement 1991, are amended to read as follows:

3 a. Sixty-two and four-tenths percent to the soil  
4 conservation division of the department of agriculture and  
5 land stewardship to provide state soil and water conservation  
6 ~~cost-sharing-funds~~ cost-share moneys pursuant to sections  
7 ~~467A:42-through-467A:75~~ division V of chapter 467A.

8 b. Eighteen and eight-tenths percent to the water  
9 protection fund created in section 467F.4, to be used for  
10 filter strips and waterways projects. The governing body of  
11 each soil and water conservation district shall identify those  
12 critical areas within the district where permanent grass and  
13 buffer zones would mitigate the effects of concentrated runoff  
14 on surface water quality. The governing body shall notify the  
15 landowners of ~~these~~ the critical areas and provide the  
16 landowners with recommendations to establish ~~these~~ permanent  
17 grass and buffer zones, including any erosion control  
18 structures that may be appropriate, to mitigate the effects of  
19 concentrated runoff on surface water quality. In providing  
20 ~~this~~ the notification and ~~these~~ recommendations, the governing  
21 body shall also inform the landowners that the establishment  
22 of these zones along with any erosion control structures may  
23 be eligible for financial assistance under the incentive  
24 programs within the water protection fund pursuant to section  
25 467F.4 and may also qualify for ~~cost-sharing-funds~~ cost-share  
26 moneys pursuant to ~~section-467A:48~~ division V of chapter 467A.

27 Sec. 2. Section 467A.42, unnumbered paragraph 1, Code  
28 1991, is amended to read as follows:

29 In addition to the definitions established by section  
30 467A.3, as used in ~~sections-467A:43-to-467A:53-and-sections~~  
31 ~~467A:61-to-467A:66~~ this division, unless the context otherwise  
32 requires:

33 Sec. 3. Section 467A.42, Code 1991, is amended by adding  
34 the following new subsections:

35 NEW SUBSECTION. 9. "Cost-share" or "cost-sharing" means a

1 contribution of money made by the state in order to pay a  
2 percentage of the costs related to the establishment of  
3 voluntary or mandatory practices as provided under this  
4 chapter, including but not limited to soil and water  
5 conservation practices and erosion control practices.

6 NEW SUBSECTION. 10. "Forest" means stands of native or  
7 introduced trees containing at least two hundred trees per  
8 acre and located on privately owned land. However, a stand of  
9 fruit trees is not a forest.

10 NEW SUBSECTION. 11. "Professional forester" means a  
11 forestry graduate of an institution of higher learning, who  
12 has a minimum of two years of forest management experience.

13 NEW SUBSECTION. 12. "State forester" means a person  
14 employed by the department of natural resources as required by  
15 section 107.13.

16 Sec. 4. Section 467A.48, subsections 1 and 2, Code  
17 Supplement 1991, are amended to read as follows:

18 1. a. An owner or occupant of land in this state is not  
19 required to establish any new permanent or temporary soil and  
20 water conservation practice unless ~~public-or-other-cost-~~  
21 ~~sharing-funds~~ cost-share or other public moneys have been  
22 specifically approved for that land and ~~actually~~ made  
23 available to the owner or occupant pursuant to section  
24 467A.74.

25 ~~b.--The-owner-or-occupant-of-land-is-eligible-to-receive~~  
26 ~~state-cost-sharing-funds-to-establish-a-permanent-grass-and~~  
27 ~~buffer-zone,-including-an-erosion-control-structure-or-an~~  
28 ~~erosion-control-practice-to-mitigate-the-effects-of~~  
29 ~~concentrated-runoff-on-surface-water-quality.~~

30 ~~c.--Except-as-otherwise-provided-in-this-chapter,-the~~  
31 ~~amount-of-cost-sharing-funds-made-available-shall-not-exceed~~  
32 ~~fifty-percent-of-the-estimated-cost-as-established-by-the~~  
33 ~~commissioners-of-a-permanent-soil-and-water-conservation~~  
34 ~~practice,-or-fifty-percent-of-the-actual-cost,-whichever-is~~  
35 ~~less,-or-an-amount-set-by-the-committee-for-a-temporary-soil~~

1 and-water-conservation-practice, except as otherwise provided  
2 by law with respect to land classified as agricultural land  
3 under conservation cover.

4 The amount of cost-sharing funds made available to  
5 establish a permanent grass and buffer zone may be up to one  
6 hundred percent of the estimated cost as established by the  
7 commissioners or one hundred percent of the actual cost,  
8 whichever is less.

9 The commissioners shall establish the estimated cost of  
10 permanent soil and water conservation practices in the  
11 district based upon one and two tenths of the average cost of  
12 the practices installed in the district during the previous  
13 year. The average costs shall be reviewed and approved by the  
14 commissioners each calendar year.

15 2. The committee shall review these requirements once each  
16 year, and may authorize soil and water conservation district  
17 commissioners to make the mandatory establishment of any  
18 specified soil and water conservation practice in any  
19 particular case conditional on a higher proportion of public  
20 cost-sharing than is required by this section. When the  
21 commissioners have been so authorized, they shall, in  
22 determining the amount of cost-sharing for establishment of a  
23 specified soil and water conservation practice to comply with  
24 an administrative order issued pursuant to section 467A.47,  
25 consider the extent to which the practice will contribute  
26 benefits to the public in relation to the benefits that will  
27 accrue to the individual owner or occupant of the land on  
28 which the practice is to be established. Evidence that an  
29 application for public or other cost-sharing funds cost-share  
30 or other public moneys, from a source or sources having  
31 authority to pay a portion of the cost of work needed to  
32 comply with an administrative order issued pursuant to section  
33 467A.47, has been submitted to the proper officer or agency  
34 constitutes commencement of the work within the meaning of  
35 sections 467A.43 through 467A.53.

1     Sec. 5. NEW SECTION. 467A.70 ESTABLISHMENT AND PURPOSE.

2     A financial incentives program is established within the  
3 division. The purpose of the program is to protect the long-  
4 term productivity of the soil and water resources of the state  
5 from erosion and sediment damage, and to encourage the  
6 adoption of farm management and agricultural practices which  
7 are consistent with the capability of the land to sustain  
8 agriculture and preserve this state's natural resources.

9     Sec. 6. NEW SECTION. 467A.72 ADMINISTRATION.

10    1. Financial incentives provided under this chapter shall  
11 be administered by the division. The incentives shall be  
12 supported with funds appropriated by the general assembly, and  
13 moneys available to or obtained by the division or the  
14 committee from public or private sources, including but not  
15 limited to the United States, other states, or private  
16 organizations. The division shall adopt all rules consistent  
17 with chapter 17A necessary to carry out the purpose of this  
18 division as provided in section 467A.70.

19    2. The commissioners of a district shall, to the extent  
20 funding is available, contract with the owner or occupant of  
21 land within the district applying to establish soil and water  
22 conservation practices as provided in this chapter. Under the  
23 agreement, the owner or occupant shall receive financial  
24 incentives to establish permanent soil and water conservation  
25 practices and management practices, in consideration for  
26 promising to maintain the practices according to rules adopted  
27 by the division.

28    Sec. 7. NEW SECTION. 467A.73 FINANCIAL INCENTIVE  
29 PROGRAMS.

30    1. The division shall establish voluntary financial  
31 incentive programs which shall provide for the following:

32    a. The allocation of cost-share moneys as financial  
33 incentives provided for the purpose of establishing permanent  
34 soil and water conservation practices, including but not  
35 limited to terraces, diversions, grade stabilization

1 structures, grassed waterways, and critical area planting.  
2 The financial incentives shall not exceed fifty percent of the  
3 estimated cost of establishing the practices, or fifty percent  
4 of the actual cost, whichever is less.

5 b. The allocation of moneys as financial incentives  
6 provided for the purpose of establishing management practices,  
7 including but not limited to contour strip-cropping. The  
8 division shall by rule establish limits on the amount of  
9 incentives which shall be authorized for payment to landowners  
10 upon establishment of the practice.

11 c. The allocation of cost-share moneys as financial  
12 incentives provided to establish practices to protect  
13 watersheds above publicly owned lakes of the state from soil  
14 erosion and sediment. The financial incentives shall be  
15 awarded to watersheds which are of the highest importance  
16 based on soil loss as established by the natural resource  
17 commission pursuant to section 107.33A. The financial  
18 incentives shall not exceed seventy-five percent of the  
19 estimated cost of establishing the practices as determined by  
20 the commissioners or seventy-five percent of the actual cost  
21 of establishing the practices, whichever is less.

22 d. The allocation of cost-share moneys as financial  
23 incentives to establish permanent grass and buffer zones,  
24 including an erosion control structure or an erosion control  
25 practice to mitigate the effects of concentrated runoff on  
26 surface water quality. The financial incentives shall not  
27 exceed seventy-five percent of the estimated cost of  
28 establishing a zone, as determined by the commissioners, or  
29 seventy-five percent of the actual cost of establishing the  
30 zone, whichever is less.

31 2. The commissioners of a district may establish voluntary  
32 financial incentive programs which shall provide for the  
33 following:

34 a. The allocation of cost-share moneys under a special  
35 agreement with owners of land in the district who promise to

1 adopt a watershed conservation plan as provided by rules which  
2 shall be adopted by the division. The watershed conservation  
3 plan shall be in conjunction with the district soil and water  
4 resource conservation plan provided under section 467A.7. The  
5 funding agreement must provide for the funding of a project  
6 which shall include at least five hundred acres of  
7 agricultural land which constitutes at least seventy-five  
8 percent of the agricultural land located within a watershed.  
9 The financial incentives shall not exceed sixty percent of the  
10 estimated cost of the project as determined by the  
11 commissioners or sixty percent of the actual cost, whichever  
12 is less.

13 b. The allocation of cost-share moneys as financial  
14 incentives to encourage summer construction of permanent soil  
15 and water conservation practices. The practices must be  
16 constructed on or after June 1 but not later than August 15.  
17 The commissioners may also provide for the payment of moneys  
18 on a prorated basis to compensate persons for the production  
19 loss on an area disturbed by construction, according to rules  
20 which shall be adopted by the division. The commissioners  
21 shall not allocate cost-share moneys to support summer  
22 construction during a fiscal year in which applications for  
23 cost-share moneys required to establish permanent soil and  
24 water conservation practices, other than established by summer  
25 construction, equal the total amount available to support the  
26 nonsummer construction practices. The financial incentives  
27 shall not exceed sixty percent of the estimated cost of  
28 establishing the practice as determined by the commissioners,  
29 or sixty percent of the actual cost of establishing the  
30 practice, whichever is less.

31 3. a. The division may reimburse private landowners for a  
32 portion of the cost of fencing materials and installation for  
33 permanent fence used to protect forest land from domestic  
34 livestock grazing, if the division determines that the grazing  
35 has caused excessive soil loss. For purposes of this

1 subsection, forests shall be considered as agricultural land  
2 eligible for cost-share moneys. The total expenditure of  
3 reimbursement moneys shall not exceed fifty percent of the  
4 total landowner expenditures. Expenditures for boundary and  
5 road fence construction and for repair and replacement of  
6 existing fences are not eligible for reimbursement unless the  
7 complete fence is replaced.

8 b. A landowner shall sign an agreement with the division  
9 as a condition for receiving cost-share moneys. The agreement  
10 shall provide that the landowner shall maintain the fence for  
11 a minimum of ten years and shall follow written professional  
12 forester recommendations relating to land protected by  
13 fencing. The recommendations must be approved by the state  
14 forester or the forester's designee.

15 c. A landowner who violates the maintenance agreement  
16 shall maintain, repair, or reconstruct the damaged fence, or  
17 shall pay the division an amount equal to the amount of cost-  
18 share moneys reimbursed.

19 d. The division shall adopt rules to administer this  
20 subsection, including rules relating to procedures required to  
21 receive reimbursement, and eligibility requirements such as  
22 the minimum forest acreage required, and the maximum  
23 reimbursement amount allowed.

24 Sec. 8. NEW SECTION. 467A.74 MANDATORY ESTABLISHMENT OF  
25 SOIL AND WATER CONSERVATION PRACTICES.

26 1. The commissioners shall allocate cost-share moneys to  
27 establish mandatory soil and water conservation practices, as  
28 provided in sections 467A.43 through 467A.53, according to the  
29 following requirements:

30 a. The financial incentives shall not exceed more than  
31 fifty percent of the estimated cost of establishing the  
32 practices as determined by the commissioners, or fifty percent  
33 of the actual cost of establishing the practices, whichever is  
34 less. However, the commissioners may allocate an amount  
35 determined by the division for management of soil and water

1 conservation practices, except as otherwise provided regarding  
2 land classified as agricultural land under conservation cover.

3 b. The commissioners shall establish the estimated cost of  
4 the permanent soil and water conservation practices in the  
5 district based upon one and two-tenths of the average cost of  
6 the practices installed in the district during the previous  
7 year. The average costs shall be reviewed and approved by the  
8 commissioners each year.

9 2. The committee shall review requirements of this section  
10 once each year. The division may authorize commissioners in  
11 districts to condition the establishment of a mandatory soil  
12 and water conservation practice in a specific case on a higher  
13 proportion of public cost-sharing than is required by this  
14 section. The commissioners shall determine the amount of  
15 cost-sharing moneys allocated to establish a specific soil and  
16 water conservation practice in accordance with an  
17 administrative order issued pursuant to section 467A.47 by  
18 considering the extent to which the practice will contribute  
19 benefits to the individual owner or occupant of the land on  
20 which the practice is to be established.

21 Sec. 9. Section 467A.75 is repealed.

22 Sec. 10. CODE EDITOR.

23 1. The Code editor shall codify sections 467A.42 through  
24 467A.64, as amended by this Act, as part 1 of division V, and  
25 may title the part as "Duties and Obligations". The Code  
26 editor shall codify section 467A.70 and subsequent sections of  
27 chapter 467A, as enacted in this Act, as part 2 of division V,  
28 and may title the part as "Financial Incentives".

29 2. The Code editor shall title section 467A.48 "Mandatory  
30 Establishment of Soil and Water Conservation Practices".

31 3. The Code editor is directed to transfer section  
32 467A.65, relating to agricultural land under conservation  
33 cover, into chapter 467A, division V, part 2, as created in  
34 this Act, and change internal references as necessary.

35

EXPLANATION

1 This bill amends provisions relating to soil and water  
2 conservation principally contained in chapter 467A. The bill  
3 divides Division V of the chapter into two parts. Part 1  
4 contains provisions relating to duties and obligations of  
5 governmental entities and landowners interested in soil and  
6 water conservation. Part 2 contains provisions relating to  
7 financial incentives, including cost-share provisions. Under  
8 current law, financial provisions are contained throughout  
9 chapter 467A and in uncodified provisions enacted annually.

10 The bill describes the purpose of finance programs as  
11 required to protect the long-term productivity of the soil and  
12 water resources of the state. The bill provides for the  
13 administration of financial incentive programs by the division  
14 of soil conservation of the department of agriculture and land  
15 stewardship, and the commissioners of soil and water  
16 conservation districts.

17 The division is required to establish voluntary financial  
18 incentive programs, including the allocation of cost-share  
19 moneys for the purpose of establishing permanent soil and  
20 water conservation practices, establishing practices to  
21 protect watersheds above publicly owned lakes, establishing  
22 permanent grass and buffer zones, developing watershed  
23 conservation plans, encouraging summer construction of  
24 permanent soil and water conservation practices, and  
25 restricting grazing on forest land. The bill establishes  
26 various limits on the amount of moneys which may be allocated  
27 under cost-share agreements.

28 The bill also requires the allocation of cost-share moneys  
29 to establish mandatory soil and water conservation practices.  
30 The bill places limits on the amount of moneys allocated to  
31 support those practices.

32 The Code editor is directed to transfer section 467A.65  
33 relating to agricultural land under conservation cover into  
34 part 2 of the new division.

35

HOUSE FILE 2343

H-5257

- 1 Amend House File 2343 as follows:
  - 2 1. Page 5, line 18, by striking the word
  - 3 "seventy-five" and inserting the following: "sixty".
  - 4 2. Page 5, line 20, by striking the word
  - 5 "seventy-five" and inserting the following: "sixty".
  - 6 3. Page 8, line 24, by inserting after the figure
  - 7 "467A.64" the following: "and section 467A.66".
- By SHOULTZ of Black Hawk

H-5257 FILED MARCH 11, 1992

*W/B 3/16*

HOUSE FILE 2343

H-5296

- 1 Amend House File 2343 as follows:
  - 2 1. Page 5, line 17, by striking the words "The
  - 3 financial".
  - 4 2. Page 5, by striking lines 18 through 21.
  - 5 3. Page 8, line 24, by inserting after the figure
  - 6 "467A.64" the following: "and section 467A.66".
- By GRUHN of Dickinson  
SHOULTZ of Black Hawk

H-5296 FILED MARCH 13, 1992

*W/B 3/16*

SENATE AMENDMENT TO HOUSE FILE 2343

H-5865

1 Amend House File 2343, as passed by the House, as  
2 follows:

3 1. Page 2, by inserting after line 15 the  
4 following:

5 "Sec. \_\_\_\_ . Section 467A.43, Code 1991, is amended  
6 by adding the following new unnumbered paragraph:  
7 NEW UNNUMBERED PARAGRAPH. A landowner shall not be  
8 liable for a claim based upon or arising out of a  
9 claim of negligent design or specification, negligent  
10 adoption of design or specification, or negligent  
11 installation, construction, or reconstruction of a  
12 soil and water construction practice or an erosion  
13 control practice that was installed, constructed, or  
14 reconstructed in accordance with generally recognized  
15 engineering or safety standards, criteria, or design  
16 theory in existence at the time of the installation,  
17 construction, or reconstruction. A soil and water  
18 conservation practice or an erosion control practice  
19 installed, constructed, or reconstructed in compliance  
20 with rules adopted by the division and currently in  
21 effect shall be deemed to be installed, constructed,  
22 or reconstructed according to generally recognized  
23 engineering or safety standards, criteria, or design  
24 theory in existence at the time of the installation,  
25 construction, or reconstruction. A claim shall not be  
26 allowed for failure to upgrade, improve, or alter any  
27 aspect of an existing soil and water conservation  
28 practice or erosion control practice to a new,  
29 changed, or altered design standard. This section  
30 does not apply to a claim based on a failure of a  
31 landowner to upgrade, improve, or alter a soil and  
32 water conservation practice or erosion control  
33 practice in violation of law. This section does not  
34 apply to claims based upon gross negligence."

35 2. Page 4, by striking lines 2 and 3 and  
36 inserting the following: "Financial incentive  
37 programs are established within the division in order  
38 to protect the long-".

39 3. Page 4, lines 28 and 29, by striking the words  
40 "FINANCIAL INCENTIVE PROGRAMS" and inserting the  
41 following: "VOLUNTARY ESTABLISHMENT OF SOIL AND WATER  
42 CONSERVATION PRACTICES".

43 4. Page 5, line 7, by inserting before the word  
44 "contour" the following: "no-till planting, ridge-  
45 till planting, contouring, and".

46 5. Page 5, line 27, by striking the word  
47 "seventy-five" and inserting the following: "one  
48 hundred".

49 6. Page 5, line 29, by striking the word  
50 "seventy-five" and inserting the following: "one

H-5865

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H-5865

Page 2

1 hundred".

2 7. Page 8, line 24, by inserting after the figure  
3 "467A.64" the following: "and section 467A.66".

4 8. By renumbering, relettering, or redesignating  
5 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-5865 FILED APRIL 13, 1992

*Concurred*  
4/17 (P.S.)

HOUSE FILE 2343

S-5372

1 Amend House File 2343, as passed by the House, as  
2 follows:

3 1. Page 5, line 27, by striking the word  
4 "seventy-five" and inserting the following: "one  
5 hundred".

6 2. Page 5, line 29, by striking the word  
7 "seventy-five" and inserting the following: "one  
8 hundred".

By BERL E. PRIEBE

S-5372 FILED MARCH 25, 1992

*Adopted 4/9/92 (p. 1319)*

HOUSE FILE 2343

S-5461

1 Amend House File 2343, as passed by the House, as  
2 follows:

3 1. Page 5, line 7, by inserting before the word  
4 "contour" the following: "no-till planting, ridge-  
5 till planting, contouring, and".

6 2. Page 5, line 27, by striking the word  
7 "seventy-five" and inserting the following: "one  
8 hundred".

9 3. Page 5, line 29, by striking the word  
10 "seventy-five" and inserting the following: "one  
11 hundred".

By BERL E. PRIEBE

S-5461 FILED MARCH 31, 1992

*Adopted 4/9 (p. 1318)*

## HOUSE FILE 2343

S-5343

1 Amend House File 2343, as passed by the House, as  
2 follows:

3 1. Page 2, by inserting after line 15 the  
4 following:

5 "Sec. \_\_\_\_ . Section 467A.43, Code 1991, is amended  
6 by adding the following new unnumbered paragraph:  
7 NEW UNNUMBERED PARAGRAPH. A landowner shall not be  
8 liable for a claim based upon or arising out of a  
9 claim of negligent design or specification, negligent  
10 adoption of design or specification, or negligent  
11 installation, construction, or reconstruction of a  
12 soil and water construction practice or an erosion  
13 control practice that was installed, constructed, or  
14 reconstructed in accordance with generally recognized  
15 engineering or safety standards, criteria, or design  
16 theory in existence at the time of the installation,  
17 construction, or reconstruction. A soil and water  
18 conservation practice or an erosion control practice  
19 installed, constructed, or reconstructed in compliance  
20 with rules adopted by the division and currently in  
21 effect shall be deemed to be installed, constructed,  
22 or reconstructed according to generally recognized  
23 engineering or safety standards, criteria, or design  
24 theory in existence at the time of the installation,  
25 construction, or reconstruction. A claim shall not be  
26 allowed for failure to upgrade, improve, or alter any  
27 aspect of an existing soil and water conservation  
28 practice or erosion control practice to a new,  
29 changed, or altered design standard. This section  
30 does not apply to a claim based on a failure of a  
31 landowner to upgrade, improve, or alter a soil and  
32 water conservation practice or erosion control  
33 practice in violation of law. This section does not  
34 apply to claims based upon gross negligence."

35 2. Page 4, by striking lines 2 and 3 and  
36 inserting the following: "Financial incentive  
37 programs are established within the division in order  
38 to protect the long-".

39 3. Page 4, lines 28 and 29, by striking the words  
40 "FINANCIAL INCENTIVE PROGRAMS" and inserting the  
41 following: "VOLUNTARY ESTABLISHMENT OF SOIL AND WATER  
42 CONSERVATION PRACTICES".

43 4. Page 8, line 24, by inserting after the figure  
44 "467A.64" the following: "and section 467A.66".

By DERRYL MCLAREN  
DONALD V. DOYLE  
BERL E. PRIEBE  
DALE L. TIEDEN

JACK W. HESTER  
LEONARD L. BOSWELL  
MARY E. KRAMER

S-5343 FILED MARCH 23, 1992

*Adopted 4/9/92 (p. 1318)*

NSB 612

Agriculture

Now

SENATE/HOUSE FILE 2343  
BY (PROPOSED DEPARTMENT OF  
AGRICULTURE AND LAND  
STEWARDSHIP BILL)

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

A BILL FOR

1 An Act relating to soil and water conservation by providing for  
2 financial incentives.

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

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SUB COMMITTEE ASSIGNMENTS

CHAIR: *Gruhn*  
COMMITTEE: *Agriculture*  
*2/12/92*

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 Section 1. Section 99E.34, subsection 2, paragraphs a and  
2 b, Code Supplement 1991, are amended to read as follows:

3 a. Sixty-two and four-tenths percent to the soil  
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5 land stewardship to provide state soil and water conservation  
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8 b. Eighteen and eight-tenths percent to the water  
9 protection fund created in section 467F.4, to be used for  
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11 each soil and water conservation district shall identify those  
12 critical areas within the district where permanent grass and  
13 buffer zones would mitigate the effects of concentrated runoff  
14 on surface water quality. The governing body shall notify the  
15 landowners of ~~those~~ the critical areas and provide the  
16 landowners with recommendations to establish ~~these~~ permanent  
17 grass and buffer zones, including any erosion control  
18 structures that may be appropriate, to mitigate the effects of  
19 concentrated runoff on surface water quality. In providing  
20 ~~this~~ the notification and ~~these~~ recommendations, the governing  
21 body shall also inform the landowners that the establishment  
22 of these zones along with any erosion control structures may  
23 be eligible for financial assistance under the incentive  
24 programs within the water protection fund pursuant to section  
25 467F.4 and may also qualify for ~~cost-sharing-funds~~ cost-share  
26 moneys pursuant to ~~section-467A:48~~ division V of chapter 467A.

27 Sec. 2. Section 467A.42, unnumbered paragraph 1, Code  
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30 467A.3, as used in ~~sections-467A:43-to-467A:53-and-sections~~  
31 ~~467A:61-to-467A:66~~ this division, unless the context otherwise  
32 requires:

33 Sec. 3. Section 467A.42, Code 1991, is amended by adding  
34 the following new subsections:

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1 contribution of money made by the state in order to pay a  
2 percentage of the costs related to the establishment of  
3 voluntary or mandatory practices as provided under this  
4 chapter, including but not limited to soil and water  
5 conservation practices and erosion control practices.

6 NEW SUBSECTION. 10. "Forest" means stands of native or  
7 introduced trees containing at least two hundred trees per  
8 acre and located on privately owned land. However, a stand of  
9 fruit trees is not a forest.

10 NEW SUBSECTION. 11. "Professional forester" means a  
11 forestry graduate of an institution of higher learning, who  
12 has a minimum of two years of forest management experience.

13 NEW SUBSECTION. 12. "State forester" means a person  
14 employed by the department of natural resources as required by  
15 section 107.13.

16 Sec. 4. Section 467A.48, subsections 1 and 2, Code  
17 Supplement 1991, are amended to read as follows:

18 1. a. An owner or occupant of land in this state is not  
19 required to establish any new permanent or temporary soil and  
20 water conservation practice unless public-or-other-cost-  
21 sharing-funds cost-share or other public moneys have been  
22 specifically approved for that land and actually made  
23 available to the owner or occupant pursuant to section  
24 467A.74.

25 ~~b.--The owner or occupant of land is eligible to receive~~  
26 ~~state cost sharing funds to establish a permanent grass and~~  
27 ~~buffer zone, including an erosion control structure or an~~  
28 ~~erosion control practice to mitigate the effects of~~  
29 ~~concentrated runoff on surface water quality.~~

30 ~~c.--Except as otherwise provided in this chapter, the~~  
31 ~~amount of cost sharing funds made available shall not exceed~~  
32 ~~fifty percent of the estimated cost as established by the~~  
33 ~~commissioners of a permanent soil and water conservation~~  
34 ~~practice, or fifty percent of the actual cost, whichever is~~  
35 ~~less, or an amount set by the committee for a temporary soil~~

1 and-water-conservation-practice, except-as-otherwise-provided  
2 by-law-with-respect-to-land-classified-as-agricultural-land  
3 under-conservation-cover.

4 The-amount-of-cost-sharing-funds-made-available-to  
5 establish-a-permanent-grass-and-buffer-zone-may-be-up-to-one  
6 hundred-percent-of-the-estimated-cost-as-established-by-the  
7 commissioners-or-one-hundred-percent-of-the-actual-cost,  
8 whichever-is-less.

9 The-commissioners-shall-establish-the-estimated-cost-of  
10 permanent-soil-and-water-conservation-practices-in-the  
11 district-based-upon-one-and-two-tenths-of-the-average-cost-of  
12 the-practices-installed-in-the-district-during-the-previous  
13 year.--The-average-costs-shall-be-reviewed-and-approved-by-the  
14 commissioners-each-calendar-year.

15 2. The-committee-shall-review-these-requirements-once-each  
16 year,-and-may-authorize-soil-and-water-conservation-district  
17 commissioners-to-make-the-mandatory-establishment-of-any  
18 specified-soil-and-water-conservation-practice-in-any  
19 particular-case-conditional-on-a-higher-proportion-of-public  
20 cost-sharing-than-is-required-by-this-section.--When-the  
21 commissioners-have-been-so-authorized,-they-shall,-in  
22 determining-the-amount-of-cost-sharing-for-establishment-of-a  
23 specified-soil-and-water-conservation-practice-to-comply-with  
24 an-administrative-order-issued-pursuant-to-section-467A.47,  
25 consider-the-extent-to-which-the-practice-will-contribute  
26 benefits-to-the-public-in-relation-to-the-benefits-that-will  
27 accrue-to-the-individual-owner-or-occupant-of-the-land-on  
28 which-the-practice-is-to-be-established: Evidence that an  
29 application for public-or-other-cost-sharing-funds cost-share  
30 or other public moneys, from a source or sources having  
31 authority to pay a portion of the cost of work needed to  
32 comply with an administrative order issued pursuant to section  
33 467A.47, has been submitted to the proper officer or agency  
34 constitutes commencement of the work within the meaning of  
35 sections 467A.43 through 467A.53.

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1     Sec. 5. NEW SECTION. 467A.70 ESTABLISHMENT AND PURPOSE.

2     A financial incentives program is established within the  
3 division. The purpose of the program is to protect the long-  
4 term productivity of the soil and water resources of the state  
5 from erosion and sediment damage, and to encourage the  
6 adoption of farm management and agricultural practices which  
7 are consistent with the capability of the land to sustain  
8 agriculture and preserve this state's natural resources.

9     Sec. 6. NEW SECTION. 467A.72 ADMINISTRATION.

10    1. Financial incentives provided under this chapter shall  
11 be administered by the division. The incentives shall be  
12 supported with funds appropriated by the general assembly, and  
13 moneys available to or obtained by the division or the  
14 committee from public or private sources, including but not  
15 limited to the United States, other states, or private  
16 organizations. The division shall adopt all rules consistent  
17 with chapter 17A necessary to carry out the purpose of this  
18 division as provided in section 467A.70.

19    2. The commissioners of a district shall, to the extent  
20 funding is available, contract with the owner or occupant of  
21 land within the district applying to establish soil and water  
22 conservation practices as provided in this chapter. Under the  
23 agreement, the owner or occupant shall receive financial  
24 incentives to establish permanent soil and water conservation  
25 practices and management practices, in consideration for  
26 promising to maintain the practices according to rules adopted  
27 by the division.

28    Sec. 7. NEW SECTION. 467A.73 FINANCIAL INCENTIVE  
29 PROGRAMS.

30    1. The division shall establish voluntary financial  
31 incentive programs which shall provide for the following:

32    a. The allocation of cost-share moneys as financial  
33 incentives provided for the purpose of establishing permanent  
34 soil and water conservation practices, including but not  
35 limited to terraces, diversions, grade stabilization

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1 structures, grassed waterways, and critical area planting.

2 The financial incentives shall not exceed fifty percent of the  
3 estimated cost of establishing the practices, or fifty percent  
4 of the actual cost, whichever is less.

5 b. The allocation of moneys as financial incentives  
6 provided for the purpose of establishing management practices,  
7 including but not limited to no-till planting, ridge-till  
8 planting, contouring, and contour strip-cropping. The  
9 division shall by rule establish limits on the amount of  
10 incentives which may be used for establishing the management  
11 practices.

12 c. The allocation of cost-share moneys as financial  
13 incentives provided to establish practices to protect  
14 watersheds above publicly owned lakes of the state from soil  
15 erosion and sediment. The financial incentives shall be  
16 awarded to watersheds which are of the highest importance  
17 based on soil loss as established by the natural resource  
18 commission pursuant to section 107.33A. The financial  
19 incentives shall not exceed seventy-five percent of the  
20 estimated cost of establishing the practices as determined by  
21 the commissioners or seventy-five percent of the actual cost  
22 of establishing the practices, whichever is less.

23 d. The allocation of cost-share moneys as financial  
24 incentives to establish permanent grass and buffer zones,  
25 including an erosion control structure or an erosion control  
26 practice to mitigate the effects of concentrated runoff on  
27 surface water quality. The financial incentives shall not  
28 exceed one hundred percent of the estimated cost of  
29 establishing a zone, as determined by the commissioners, or  
30 one hundred percent of the actual cost of establishing the  
31 zone, whichever is less.

32 2. The commissioners of a district may establish voluntary  
33 financial incentive programs which shall provide for the  
34 following:

35 a. The allocation of cost-share moneys under a special

1 agreement with owners of land in the district who promise to  
2 adopt a watershed conservation plan as provided by rules which  
3 shall be adopted by the division. The watershed conservation  
4 plan shall be in conjunction with the district soil and water  
5 resource conservation plan provided under section 467A.7. The  
6 funding agreement must provide for the funding of a project  
7 which shall include at least five hundred acres of  
8 agricultural land which constitutes at least seventy-five  
9 percent of the agricultural land located within a watershed.  
10 The financial incentives shall not exceed sixty percent of the  
11 estimated cost of the project as determined by the  
12 commissioners or sixty percent of the actual cost, whichever  
13 is less.

14 b. The allocation of cost-share moneys as financial  
15 incentives to encourage summer construction of permanent soil  
16 and water conservation practices. The practices must be  
17 constructed on or after June 1 but not later than August 15.  
18 The commissioners may also provide for the payment of moneys  
19 on a prorated basis to compensate persons for the production  
20 loss on an area disturbed by construction, according to rules  
21 which shall be adopted by the division. The commissioners  
22 shall not allocate cost-share moneys to support summer  
23 construction during a fiscal year in which applications for  
24 cost-share moneys required to establish permanent soil and  
25 water conservation practices, other than established by summer  
26 construction, equal the total amount available to support the  
27 nonsummer construction practices. The financial incentives  
28 shall not exceed sixty percent of the estimated cost of  
29 establishing the practice as determined by the commissioners,  
30 or sixty percent of the actual cost of establishing the  
31 practice, whichever is less.

32 3. a. The division may reimburse private landowners for a  
33 portion of the cost of fencing materials and installation for  
34 permanent fence used to protect forest land from domestic  
35 livestock grazing, if the division determines that the grazing

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1 has caused excessive soil loss. For purposes of this  
2 subsection, forests shall be considered as agricultural land  
3 eligible for cost-share moneys. The total expenditure of  
4 reimbursement moneys shall not exceed fifty percent of the  
5 total landowner expenditures. Expenditures for boundary and  
6 road fence construction and for repair and replacement of  
7 existing fences are not eligible for reimbursement unless the  
8 complete fence is replaced.

9 b. A landowner shall sign an agreement with the division  
10 as a condition for receiving cost-share moneys. The agreement  
11 shall provide that the landowner shall maintain the fence for  
12 a minimum of ten years and shall follow written professional  
13 forester recommendations relating to land protected by  
14 fencing. The recommendations must be approved by the state  
15 forester or designee.

16 c. A landowner who violates the maintenance agreement  
17 shall maintain, repair, or reconstruct damaged fence, or shall  
18 pay the division an amount equal to the amount of cost-share  
19 moneys reimbursed.

20 d. The division shall adopt rules to administer this  
21 subsection, including rules relating to procedures required to  
22 receive reimbursement, and eligibility requirements such as  
23 the minimum forest acreage required, and the maximum  
24 reimbursement amount allowed.

25 Sec. 8. NEW SECTION. 467A.74 MANDATORY ESTABLISHMENT OF  
26 SOIL AND WATER CONSERVATION PRACTICES.

27 1. The commissioners shall allocate cost-share moneys to  
28 establish mandatory soil and water conservation practices, as  
29 provided in sections 467A.43 through 467A.53, according to the  
30 following requirements:

31 a. The financial incentives shall not exceed more than  
32 fifty percent of the estimated cost of establishing the  
33 practices as determined by the commissioners, or fifty percent  
34 of the actual cost of establishing the practices, whichever is  
35 less. However, the commissioners may allocate an amount

1 determined by the division for a temporary soil and water  
2 conservation practice, except as otherwise provided regarding  
3 land classified as agricultural land under conservation cover.

4 b. The commissioners shall establish the estimated cost of  
5 the permanent soil and water conservation practices in the  
6 district based upon one and two-tenths of the average cost of  
7 the practices installed in the district during the previous  
8 year. The average costs shall be reviewed and approved by the  
9 commissioners each year.

10 2. The committee shall review requirements of this section  
11 once each year. The division may authorize commissioners in  
12 districts to condition the establishment of a mandatory soil  
13 and water conservation practice in a specific case on a higher  
14 proportion of public cost-sharing than is required by this  
15 section. The commissioners shall determine the amount of  
16 cost-sharing moneys allocated to establish a specific soil and  
17 water conservation practice in accordance with an  
18 administrative order issued pursuant to section 467A.47 by  
19 considering the extent to which the practice will contribute  
20 benefits to the individual owner or occupant of the land on  
21 which the practice is to be established.

22 Sec. 9. Section 467A.75 is repealed.

23 Sec. 10. CODE EDITOR.

24 1. The Code editor shall codify sections 467A.42 through  
25 467A.64, as amended by this Act, as part 1 of division V, and  
26 may title the part as "Duties and Obligations". The Code  
27 editor shall codify section 467A.70 and subsequent sections of  
28 chapter 467A, as enacted in this Act, as part 2 of division V,  
29 and may title the part as "Financial Incentives".

30 2. The Code editor shall title section 467A.48 "Mandatory  
31 Establishment of Soil and Water Conservation Practices".

32 3. The Code editor is directed to transfer section  
33 467A.65, relating to agricultural land under conservation  
34 cover, into chapter 467A, division V, part 2 as created in  
35 this Act, and change internal references as necessary.

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EXPLANATION

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2 This bill amends provisions relating to soil and water  
3 conservation principally contained in chapter 467A. The bill  
4 divides Division V of the chapter into two parts. Part 1  
5 contains provisions relating to duties and obligations of  
6 governmental entities and landowners interested in soil and  
7 water conservation. Part 2 contains provisions relating to  
8 financial incentives, including cost-share provisions. Under  
9 current law, financial provisions are contained throughout  
10 chapter 467A and in uncodified provisions enacted annually.  
11 The bill describes the purpose of finance programs as  
12 required to protect the long-term productivity of the soil and  
13 water resources of the state. The bill provides for the  
14 administration of financial incentive programs by the division  
15 of soil conservation of the department of agriculture and land  
16 stewardship, and the commissioners of soil and water  
17 conservation districts.  
18 The division is required to establish voluntary financial  
19 incentive programs, including the allocation of cost-share  
20 moneys for the purpose of establishing permanent soil and  
21 water conservation practices, establishing practices to  
22 protect watersheds above publicly owned lakes, establishing  
23 permanent grass and buffer zones, developing watershed  
24 conservation plans, encouraging summer construction of  
25 permanent soil and water conservation practices, and  
26 restricting grazing on forest land. The bill establishes  
27 various limits on the amount of moneys which may be allocated  
28 under cost-share agreements.  
29 The bill also requires the allocation of cost-share moneys  
30 to establish mandatory soil and water conservation practices.  
31 The bill places limits on the amount of moneys allocated to  
32 support those practices.  
33 The Code editor is directed to transfer section 467A.65  
34 relating to agricultural land under conservation cover into  
35 part 2 of the new division.

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BACKGROUND STATEMENT  
SUBMITTED BY THE AGENCY

The purpose of this bill is to consolidate provisions relating to financial incentive programs for soil and water conservation. Currently, provisions authorizing cost-share funding are contained in the appropriation bill for the department enacted each year.

In addition, in 1990 the General Assembly amended section 467A.48 which is the state's mandatory erosion control law to provide authorization to allocate cost-share funds to support the establishment of filter strips.

This bill attempts to make no substantive changes to the Code. It establishes a cost-share rate of 75 percent for the establishment of practices to protect watersheds above publicly owned lakes. In 1991 the General Assembly reduced this rate from 75 to 50 percent. With this exception, the 75 percent rate is consistent with the allocation made to the department since the program's establishment.

HOUSE FILE 2343

AN ACT  
RELATING TO SOIL AND WATER CONSERVATION BY PROVIDING FOR  
FINANCIAL INCENTIVES.

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

Section 1. Section 99E.34, subsection 2, paragraphs a and b, Code Supplement 1991, are amended to read as follows:

a. Sixty-two and four-tenths percent to the soil conservation division of the department of agriculture and land stewardship to provide state soil and water conservation ~~cost-sharing-funds~~ cost-share moneys pursuant to sections ~~467A:42-through-467A:75~~ division V of chapter 467A.

b. Eighteen and eight-tenths percent to the water protection fund created in section 467F.4, to be used for filter strips and waterways projects. The governing body of each soil and water conservation district shall identify those critical areas within the district where permanent grass and buffer zones would mitigate the effects of concentrated runoff on surface water quality. The governing body shall notify the landowners of ~~these~~ the critical areas and provide the landowners with recommendations to establish these permanent grass and buffer zones, including any erosion control structures that may be appropriate, to mitigate the effects of concentrated runoff on surface water quality. In providing ~~this~~ the notification and ~~these~~ recommendations, the governing body shall also inform the landowners that the establishment of these zones along with any erosion control structures may be eligible for financial assistance under the incentive programs within the water protection fund pursuant to section 467F.4 and may also qualify for ~~cost-sharing-funds~~ cost-share moneys pursuant to ~~section-467A:48~~ division V of chapter 467A.

Sec. 2. Section 467A.42, unnumbered paragraph 1, Code 1991, is amended to read as follows:

In addition to the definitions established by section 467A.3, as used in ~~sections-467A:43-to-467A:53-and-sections-467A:61-to-467A:66~~ this division, unless the context otherwise requires:

Sec. 3. Section 467A.42, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 9. "Cost-share" or "cost-sharing" means a contribution of money made by the state in order to pay a percentage of the costs related to the establishment of voluntary or mandatory practices as provided under this chapter, including but not limited to soil and water conservation practices and erosion control practices.

NEW SUBSECTION. 10. "Forest" means stands of native or introduced trees containing at least two hundred trees per acre and located on privately owned land. However, a stand of fruit trees is not a forest.

NEW SUBSECTION. 11. "Professional forester" means a forestry graduate of an institution of higher learning, who has a minimum of two years of forest management experience.

NEW SUBSECTION. 12. "State forester" means a person employed by the department of natural resources as required by section 107.13.

Sec. 4. Section 467A.43, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A landowner shall not be liable for a claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent installation, construction, or reconstruction of a soil and water construction practice or an erosion control practice that was installed, constructed, or reconstructed in accordance with generally recognized engineering or safety standards, criteria, or design theory in existence at the time of the installation, construction, or

reconstruction. A soil and water conservation practice or an erosion control practice installed, constructed, or reconstructed in compliance with rules adopted by the division and currently in effect shall be deemed to be installed, constructed, or reconstructed according to generally recognized engineering or safety standards, criteria, or design theory in existence at the time of the installation, construction, or reconstruction. A claim shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing soil and water conservation practice or erosion control practice to a new, changed, or altered design standard. This section does not apply to a claim based on a failure of a landowner to upgrade, improve, or alter a soil and water conservation practice or erosion control practice in violation of law. This section does not apply to claims based upon gross negligence.

Sec. 5. Section 467A.48, subsections 1 and 2, Code Supplement 1991, are amended to read as follows:

1. a. An owner or occupant of land in this state is not required to establish any new permanent or temporary soil and water conservation practice unless public or other cost-sharing funds cost-share or other public moneys have been specifically approved for that land and actually made available to the owner or occupant pursuant to section 467A.74.

b. ~~The owner or occupant of land is eligible to receive state cost-sharing funds to establish a permanent grass and buffer zone, including an erosion control structure or an erosion control practice to mitigate the effects of concentrated runoff on surface water quality;~~

c. ~~Except as otherwise provided in this chapter, the amount of cost-sharing funds made available shall not exceed fifty percent of the estimated cost as established by the commissioners of a permanent soil and water conservation practice, or fifty percent of the actual cost, whichever is~~

~~less, or an amount set by the committee for a temporary soil and water conservation practice, except as otherwise provided by law with respect to land classified as agricultural land under conservation cover;~~

~~The amount of cost-sharing funds made available to establish a permanent grass and buffer zone may be up to one hundred percent of the estimated cost as established by the commissioners or one hundred percent of the actual cost, whichever is less;~~

~~The commissioners shall establish the estimated cost of permanent soil and water conservation practices in the district based upon one and two tenths of the average cost of the practices installed in the district during the previous year. The average costs shall be reviewed and approved by the commissioners each calendar year.~~

2. ~~The committee shall review these requirements once each year, and may authorize soil and water conservation district commissioners to make the mandatory establishment of any specified soil and water conservation practice in any particular case conditional on a higher proportion of public cost-sharing than is required by this section. When the commissioners have been so authorized, they shall, in determining the amount of cost-sharing for establishment of a specified soil and water conservation practice to comply with an administrative order issued pursuant to section 467A.47, consider the extent to which the practice will contribute benefits to the public in relation to the benefits that will accrue to the individual owner or occupant of the land on which the practice is to be established. Evidence that an application for public or other cost-sharing funds cost-share or other public moneys, from a source or sources having authority to pay a portion of the cost of work needed to comply with an administrative order issued pursuant to section 467A.47, has been submitted to the proper officer or agency constitutes commencement of the work within the meaning of sections 467A.43 through 467A.53.~~

Sec. 6. NEW SECTION. 467A.70 ESTABLISHMENT AND PURPOSE.

Financial incentive programs are established within the division in order to protect the long-term productivity of the soil and water resources of the state from erosion and sediment damage, and to encourage the adoption of farm management and agricultural practices which are consistent with the capability of the land to sustain agriculture and preserve this state's natural resources.

Sec. 7. NEW SECTION. 467A.72 ADMINISTRATION.

1. Financial incentives provided under this chapter shall be administered by the division. The incentives shall be supported with funds appropriated by the general assembly, and moneys available to or obtained by the division or the committee from public or private sources, including but not limited to the United States, other states, or private organizations. The division shall adopt all rules consistent with chapter 17A necessary to carry out the purpose of this division as provided in section 467A.70.

2. The commissioners of a district shall, to the extent funding is available, contract with the owner or occupant of land within the district applying to establish soil and water conservation practices as provided in this chapter. Under the agreement, the owner or occupant shall receive financial incentives to establish permanent soil and water conservation practices and management practices, in consideration for promising to maintain the practices according to rules adopted by the division.

Sec. 8. NEW SECTION. 467A.73 VOLUNTARY ESTABLISHMENT OF SOIL AND WATER CONSERVATION PRACTICES.

1. The division shall establish voluntary financial incentive programs which shall provide for the following:

a. The allocation of cost-share moneys as financial incentives provided for the purpose of establishing permanent soil and water conservation practices, including but not limited to terraces, diversions, grade stabilization

structures, grassed waterways, and critical area planting. The financial incentives shall not exceed fifty percent of the estimated cost of establishing the practices, or fifty percent of the actual cost, whichever is less.

b. The allocation of moneys as financial incentives provided for the purpose of establishing management practices, including but not limited to no-till planting, ridge-till planting, contouring, and contour strip-cropping. The division shall by rule establish limits on the amount of incentives which shall be authorized for payment to landowners upon establishment of the practice.

c. The allocation of cost-share moneys as financial incentives provided to establish practices to protect watersheds above publicly owned lakes of the state from soil erosion and sediment. The financial incentives shall be awarded to watersheds which are of the highest importance based on soil loss as established by the natural resource commission pursuant to section 107.33A. The financial incentives shall not exceed seventy-five percent of the estimated cost of establishing the practices as determined by the commissioners or seventy-five percent of the actual cost of establishing the practices, whichever is less.

d. The allocation of cost-share moneys as financial incentives to establish permanent grass and buffer zones, including an erosion control structure or an erosion control practice to mitigate the effects of concentrated runoff on surface water quality. The financial incentives shall not exceed one hundred percent of the estimated cost of establishing a zone, as determined by the commissioners, or one hundred percent of the actual cost of establishing the zone, whichever is less.

2. The commissioners of a district may establish voluntary financial incentive programs which shall provide for the following:

a. The allocation of cost-share moneys under a special agreement with owners of land in the district who promise to adopt a watershed conservation plan as provided by rules which shall be adopted by the division. The watershed conservation plan shall be in conjunction with the district soil and water resource conservation plan provided under section 467A.7. The funding agreement must provide for the funding of a project which shall include at least five hundred acres of agricultural land which constitutes at least seventy-five percent of the agricultural land located within a watershed. The financial incentives shall not exceed sixty percent of the estimated cost of the project as determined by the commissioners or sixty percent of the actual cost, whichever is less.

b. The allocation of cost-share moneys as financial incentives to encourage summer construction of permanent soil and water conservation practices. The practices must be constructed on or after June 1 but not later than August 15. The commissioners may also provide for the payment of moneys on a prorated basis to compensate persons for the production loss on an area disturbed by construction, according to rules which shall be adopted by the division. The commissioners shall not allocate cost-share moneys to support summer construction during a fiscal year in which applications for cost-share moneys required to establish permanent soil and water conservation practices, other than established by summer construction, equal the total amount available to support the nonsummer construction practices. The financial incentives shall not exceed sixty percent of the estimated cost of establishing the practice as determined by the commissioners, or sixty percent of the actual cost of establishing the practice, whichever is less.

3. a. The division may reimburse private landowners for a portion of the cost of fencing materials and installation for permanent fence used to protect forest land from domestic

livestock grazing, if the division determines that the grazing has caused excessive soil loss. For purposes of this subsection, forests shall be considered as agricultural land eligible for cost-share moneys. The total expenditure of reimbursement moneys shall not exceed fifty percent of the total landowner expenditures. Expenditures for boundary and road fence construction and for repair and replacement of existing fences are not eligible for reimbursement unless the complete fence is replaced.

b. A landowner shall sign an agreement with the division as a condition for receiving cost-share moneys. The agreement shall provide that the landowner shall maintain the fence for a minimum of ten years and shall follow written professional forester recommendations relating to land protected by fencing. The recommendations must be approved by the state forester or the forester's designee.

c. A landowner who violates the maintenance agreement shall maintain, repair, or reconstruct the damaged fence, or shall pay the division an amount equal to the amount of cost-share moneys reimbursed.

d. The division shall adopt rules to administer this subsection, including rules relating to procedures required to receive reimbursement, and eligibility requirements such as the minimum forest acreage required, and the maximum reimbursement amount allowed.

Sec. 9. NEW SECTION. 467A.74 MANDATORY ESTABLISHMENT OF SOIL AND WATER CONSERVATION PRACTICES.

1. The commissioners shall allocate cost-share moneys to establish mandatory soil and water conservation practices, as provided in sections 467A.43 through 467A.53, according to the following requirements:

a. The financial incentives shall not exceed more than fifty percent of the estimated cost of establishing the practices as determined by the commissioners, or fifty percent of the actual cost of establishing the practices, whichever is

less. However, the commissioners may allocate an amount determined by the division for management of soil and water conservation practices, except as otherwise provided regarding land classified as agricultural land under conservation cover.

b. The commissioners shall establish the estimated cost of the permanent soil and water conservation practices in the district based upon one and two-tenths of the average cost of the practices installed in the district during the previous year. The average costs shall be reviewed and approved by the commissioners each year.

2. The committee shall review requirements of this section once each year. The division may authorize commissioners in districts to condition the establishment of a mandatory soil and water conservation practice in a specific case on a higher proportion of public cost-sharing than is required by this section. The commissioners shall determine the amount of cost-sharing moneys allocated to establish a specific soil and water conservation practice in accordance with an administrative order issued pursuant to section 467A.47 by considering the extent to which the practice will contribute benefits to the individual owner or occupant of the land on which the practice is to be established.

Sec. 10. Section 467A.75 is repealed.

Sec. 11. CODE EDITOR.

1. The Code editor shall codify sections 467A.42 through 467A.64 and section 467A.66, as amended by this Act, as part 1 of division V, and may title the part as "Duties and Obligations". The Code editor shall codify section 467A.70 and subsequent sections of chapter 467A, as enacted in this Act, as part 2 of division V, and may title the part as "Financial Incentives".

2. The Code editor shall title section 467A.48 "Mandatory Establishment of Soil and Water Conservation Practices".

3. The Code editor is directed to transfer section 467A.65, relating to agricultural land under conservation

cover, into chapter 467A, division V, part 2, as created in this Act, and change internal references as necessary.

\_\_\_\_\_  
ROBERT C. ARNOULD  
Speaker of the House

\_\_\_\_\_  
MICHAEL E. GRONSTAL  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2343, Seventy-fourth General Assembly.

\_\_\_\_\_  
JOSEPH O'HERN  
Chief Clerk of the House

Approved *April 29*, 1992

\_\_\_\_\_  
TERRY E. BRANSTAD  
Governor