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SPECIAL ORDER CALENDAR

HOUSE FILE 519

BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HSB 50.1)

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 Vote: Ayes 70 Nays 27 Vote: Ayes 42 Nays 8
 Approved May 31, 1995

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Vote 26-24
(P.1534)

A BILL FOR

1 An Act providing for the regulation of animal feeding operations,
 2 fees, the expenditure of moneys, penalties, and an effective
 3 date.

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

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HF 519

1 Section 1. NEW SECTION. 159.27 DISPOSAL OF MANURE WITHIN
2 DESIGNATED AREAS.

3 The department shall adopt rules relating to the disposal
4 of manure in close proximity to a designated area. A person
5 shall not dispose of manure on cropland within fifty feet from
6 a designated area, unless the manure is applied by injection
7 or incorporation within twenty-four hours following the
8 application. As used in this section, a "designated area"
9 means a sinkhole, well, cistern, abandoned well, unplugged
10 agricultural drainage well, drainage well surface inlet,
11 drinking water well, water impoundment or other similar area.

12 Sec. 2. NEW SECTION. 204.1 DEFINITIONS.

13 1. "Animal unit" means a unit of measurement used to
14 determine the animal capacity of an animal feeding operation,
15 based upon the product of multiplying the number of animals of
16 each species by the following:

17 a. Slaughter and feeder cattle	1.0
18 b. Mature dairy cattle	1.4
19 c. Butcher and breeding swine, over fifty-five pounds	0.4
20 d. Sheep or lambs	0.1
21 e. Horses	2.0
22 f. Turkeys	0.018
23 g. Broiler or layer chickens	0.01

24 2. "Confinement feeding operation" means a confinement
25 feeding operation as defined in section 455B.161.

26 3. "Department" means the department of agriculture and
27 land stewardship.

28 4. "Fund" means the manure storage indemnity fund created
29 in section 204.2.

30 5. "Indemnity fee" means the fee provided in section
31 204.3.

32 6. "Manure" means animal excreta or other commonly
33 associated wastes of animals, including but not limited to
34 bedding, litter, or feed losses.

35 7. "Manure storage structure" means a structure used to

1 store manure as part of a confinement feeding operation
2 required to be constructed pursuant to a permit issued by the
3 department of natural resources pursuant to section 455B.173.
4 A manure storage structure includes, but is not limited to, an
5 anaerobic lagoon, formed manure storage structure, or earthen
6 manure storage basin, as defined in section 455B.161.

7 8. "Permittee" means a person who obtains a permit for the
8 construction of a confinement feeding operation, if a manure
9 storage structure is connected to the confinement feeding
10 operation.

11 Sec. 3. NEW SECTION. 204.2 MANURE STORAGE INDEMNITY
12 FUND.

13 1. A manure storage indemnity fund is created as a
14 separate fund in the state treasury under the control of the
15 department. The general fund of the state is not liable for
16 claims presented against the fund.

17 2. The fund consists of moneys from indemnity fees
18 remitted by permittees to the department of natural resources
19 and transferred to the department of agriculture and land
20 stewardship as provided in section 204.3; sums collected on
21 behalf of the fund by the department through legal action or
22 settlement; moneys required to be repaid to the department by
23 a county pursuant to this chapter; civil penalties assessed
24 and collected by the department of natural resources pursuant
25 to section 455B.191, against persons required to obtain a
26 permit for the construction of a confinement feeding
27 operation; moneys paid as a settlement involving an
28 enforcement action for a civil penalty subject to assessment
29 and collection by the department of natural resources pursuant
30 to section 455B.191; interest, property, and securities
31 acquired through the use of moneys in the fund; or moneys
32 contributed to the fund from other sources.

33 3. The moneys collected under this section and deposited
34 in the fund shall be appropriated to the department for the
35 exclusive purpose of indemnifying a county for expenses

1 related to removing and disposing of manure from a manure
2 storage structure, and to pay the department for costs related
3 to administering the provisions of this chapter. For each
4 fiscal year the department shall use not more than two percent
5 of the total amount which may be deposited in the fund to pay
6 for the costs of administration. Moneys in the fund shall not
7 be subject to appropriation or expenditure for any other
8 purpose.

9 4. The treasurer of state shall act as custodian of the
10 fund and disburse amounts contained in the fund as directed by
11 the department. The treasurer of state is authorized to
12 invest the moneys deposited in the fund. The income from such
13 investment shall be credited to and deposited in the fund.
14 Notwithstanding section 8.33, moneys in the fund are not
15 subject to reversion to the general fund of the state. The
16 fund shall be administered by the department which shall make
17 expenditures from the fund consistent with the purposes set
18 out in this chapter. The moneys in the fund shall be
19 disbursed upon warrants drawn by the director of revenue and
20 finance pursuant to the order of the department. The fiscal
21 year of the fund begins July 1. The finances of the fund
22 shall be calculated on an accrual basis in accordance with
23 generally accepted accounting principles. The auditor of
24 state shall regularly perform audits of the fund.

25 5. On August 31 following the close of each fiscal year,
26 moneys which are not obligated or encumbered on June 30 of the
27 past fiscal year, less the department's estimate of the cost
28 to the fund for pending or unsettled claims, and which are in
29 excess of five hundred thousand dollars, shall be deposited in
30 the organic nutrient management fund as created in section
31 161C.5 for purposes of supporting the organic nutrient
32 management program.

33 Sec. 4. NEW SECTION. 204.3 FEES.

34 An indemnity fee shall be assessed upon permittees which
35 shall be paid to and collected by the department of natural

1 resources, prior to issuing a permit for the construction of a
2 confinement feeding operation as provided in section 455B.173.
3 The amount of the fee shall equal two cents per animal unit of
4 capacity for confinement feeding operations housing poultry
5 and five cents per animal unit of capacity for confinement
6 feeding operations housing other species of animals. The
7 department of natural resources shall deposit moneys collected
8 from the fees into the fund according to procedures adopted by
9 the department of agriculture and land stewardship.

10 Sec. 5. NEW SECTION. 204.4 CLAIMS AGAINST THE FUND.

11 1. A county that has acquired real estate containing a
12 manure storage structure following nonpayment of taxes
13 pursuant to section 446.19, may make a claim against the fund
14 to pay the costs of removing and disposing of the manure from
15 a manure storage structure. Each claim shall include a bid by
16 a qualified person, other than a governmental entity, to
17 remove and dispose of the manure for a fixed amount specified
18 in the bid.

19 2. The department shall determine if a claim is eligible
20 to be satisfied under this section, and do one of the
21 following:

22 a. Pay the fixed amount specified in the bid submitted by
23 the county upon completion of the work.

24 b. Obtain a lower fixed amount bid for the work from
25 another qualified person, other than a governmental entity,
26 and pay the fixed amount in this bid upon completion of the
27 work. The department is not required to comply with section
28 18.6 in implementing this section.

29 3. Upon a determination that the claim is eligible for
30 payment, the department shall provide for payment of fifty
31 percent of the claim, as provided in this section, but not
32 more than one hundred fifty thousand dollars per claimant. If
33 at any time the department determines that there are
34 insufficient moneys to make payment of all claims, the
35 department shall pay claims according to the date that the

1 claims are received by the department. To the extent that a
2 claim cannot be fully satisfied, the department shall order
3 that the unpaid portion of the payment be deferred until the
4 claim can be satisfied. However, the department shall not
5 satisfy claims from moneys dedicated for the administration of
6 the fund.

7 4. In the event of payment of a claim under this section,
8 the fund is subrogated to the extent of the amount of the
9 payment to all rights, powers, privileges, and remedies of the
10 county regarding the payment amount. The county shall render
11 all necessary assistance to the department in securing the
12 rights granted in this section. A case or proceeding
13 initiated by a county which involves a claim submitted to the
14 department shall not be compromised or settled without the
15 consent of the department. A county shall not be eligible to
16 submit a claim to the department if the county has compromised
17 or settled a case or proceeding, without the consent of the
18 department.

19 5. If upon disposition of the real estate the county
20 realizes an amount which exceeds the total amount of the
21 delinquent real estate taxes, the county shall forward to the
22 fund any excess amount which is not more than the amount
23 expended by the fund.

24 Sec. 6. NEW SECTION. 204.5 NO STATE OBLIGATION.

25 This chapter does not imply any guarantee or obligation on
26 the part of this state, or any of its agencies, employees, or
27 officials, either elective or appointive, with respect to any
28 agreement or undertaking to which this chapter relates.

29 Sec. 7. NEW SECTION. 204.6 DEPARTMENTAL RULES.

30 The department shall adopt administrative rules pursuant to
31 chapter 17A necessary to administer this chapter.

32 Sec. 8. Section 455B.134, subsection 3, paragraph f,
33 subparagraph (1), unnumbered paragraph 2, Code 1995, is
34 amended to read as follows:

35 Anaerobic lagoons, constructed or expanded on or after June

1 20, 1979, but prior to the effective date of this Act, or
2 earthen waste slurry storage basins, constructed or expanded
3 on or after July 1, 1990, but prior to the effective date of
4 this Act, which are used in connection with animal feeding
5 operations containing less than six hundred twenty-five
6 thousand pounds live animal weight capacity of animal species
7 other than beef cattle or containing less than one million six
8 hundred thousand pounds live animal weight capacity of beef
9 cattle, shall be located at least one thousand two hundred
10 fifty feet from a residence not owned by the owner of the
11 feeding operation or from a public use area other than a
12 public road. Anaerobic lagoons or earthen waste slurry
13 storage basins, which are used in connection with animal
14 feeding operations containing six hundred twenty-five thousand
15 pounds or more live animal weight capacity of animal species
16 other than beef cattle or containing one million six hundred
17 thousand pounds or more live animal weight capacity of beef
18 cattle, shall be located at least one thousand eight hundred
19 seventy-five feet from a residence not owned by the owner of
20 the feeding operation or from a public use area other than a
21 public road. For the purpose of this paragraph the
22 determination of live animal weight capacity shall be based on
23 the average animal weight capacity during a production cycle
24 and the maximum animal capacity of the animal feeding
25 operation. ~~These-separation-distances-apply-to-the~~
26 ~~construction-of-new-facilities-and-the-expansion-of-existing~~
27 ~~facilities-~~

28 SEPARATION DISTANCE REQUIREMENTS -- NEW PART

29 Sec. 9. NEW SECTION. 455B.161 DEFINITIONS.

30 As used in this part, unless the context otherwise
31 requires:

32 1. "Anaerobic lagoon" means an impoundment used in
33 conjunction with an animal feeding operation, if the primary
34 function of the impoundment is to store and stabilize organic
35 wastes, the impoundment is designed to receive wastes on a

1 regular basis, and the impoundment's design waste loading
2 rates provide that the predominant biological activity is
3 anaerobic. An anaerobic lagoon does not include any of the
4 following:

5 a. A confinement feeding operation structure.

6 b. A runoff control basin which collects and stores only
7 precipitation induced runoff from an animal feeding operation
8 in which animals are confined to areas which are unroofed or
9 partially roofed and in which no crop, vegetation, or forage
10 growth or residue cover is maintained during the period in
11 which animals are confined in the operation.

12 c. An anaerobic treatment system which includes collection
13 and treatment facilities for all off gases.

14 2. "Animal" means a domesticated animal belonging to the
15 bovine, porcine, ovine, caprine, equine, or avian species.

16 3. "Animal feeding operation" means a lot, yard, corral,
17 building, or other area in which animals are confined and fed
18 and maintained for forty-five days or more in any twelve-month
19 period, and all structures used for the storage of manure from
20 animals in the operation. Two or more animal feeding
21 operations under common ownership or management are deemed to
22 be a single animal feeding operation if they are adjacent or
23 utilize a common system for manure storage.

24 4. "Animal feeding operation structure" means an anaerobic
25 lagoon or confinement feeding operation structure.

26 5. "Animal weight capacity" means the product of
27 multiplying the maximum number of animals which the owner or
28 operator confines in an animal feeding operation at any one
29 time by the average weight during a production cycle.

30 6. "Commercial enterprise" means a building which is part
31 of a profit or nonprofit business, organized as a corporation,
32 cooperative association, partnership, limited partnership,
33 limited liability company, proprietorship, or other entity
34 formed under the laws of the United States, or a state,
35 district, or territory of the United States, which is involved

1 in the manufacture of goods, the delivery of services, or the
2 sale of goods or services on a wholesale or retail basis. A
3 commercial enterprise does not include a farm operation.

4 7. "Confinement building" means a building used in
5 conjunction with a confinement feeding operation to house
6 animals.

7 8. "Confinement feeding operation" means an animal feeding
8 operation in which animals are confined to areas which are
9 totally roofed.

10 9. "Confinement feeding operation structure" means a
11 formed manure storage structure, egg washwater storage
12 structure, earthen manure storage basin, or confinement
13 building. A confinement feeding operation structure does not
14 include an anaerobic lagoon.

15 10. "Earthen manure storage basin" means an earthen
16 cavity, either covered or uncovered, which, on a regular
17 basis, receives waste discharges from a confinement feeding
18 operation if accumulated wastes from the basin are completely
19 removed at least twice each year.

20 11. "Educational institution" means a building in which an
21 organized course of study or training is offered to students
22 enrolled in kindergarten through grade twelve and served by
23 local school districts, accredited or approved nonpublic
24 schools, area education agencies, community colleges,
25 institutions of higher education under the control of the
26 state board of regents, and accredited independent colleges
27 and universities.

28 12. "Egg washwater storage structure" means an aerobic or
29 anaerobic structure used to store the wastewater resulting
30 from the washing and in-shell packaging of eggs.

31 13. "Formed manure storage structure" means a structure,
32 either covered or uncovered, used to store manure, which has
33 walls and a floor constructed of concrete, concrete block,
34 wood, steel, or similar materials.

35 14. "Manure" means animal excreta or other commonly

1 associated wastes of animals, including, but not limited to,
2 bedding, litter, or feed losses.

3 15. "Public use area" means that portion of public land
4 where persons customarily congregate, as provided by rules
5 which shall be adopted by the department.

6 16. "Religious institution" means a building, constructed
7 prior to the effective date of this Act, in which an active
8 congregation is devoted to worship.

9 Sec. 10. NEW SECTION. 455B.162 ANIMAL FEEDING OPERATIONS
10 -- NEW CONSTRUCTION AND EXPANSION.

11 The following shall apply to animal feeding operation
12 structures constructed on or after the effective date of this
13 Act or to the expansion of structures constructed on or after
14 the effective date of this Act:

15 1. The following table represents the minimum separation
16 distance in feet required between an animal feeding operation
17 structure and a residence not owned by the owner of the animal
18 feeding operation, or a commercial enterprise, bona fide
19 religious institution or an educational institution:

	Minimum separation distance in feet for operations having an animal weight capacity of less than 625,000 pounds for animals other than beef cattle, or less than 1,600,000 pounds for beef cattle	Minimum separation distance in feet for operations having an animal weight capacity of 625,000 or more pounds for animals other than beef cattle, or 1,600,000 or more pounds for beef cattle
32 Anaerobic lagoon	1,250	1,875
33 Uncovered earthen manure 34 storage basin	1,250	1,875
35 Uncovered formed manure		

1	storage structure	1,000	1,500
2	Covered earthen manure		
3	storage basin	750	1,000
4	Covered formed manure		
5	storage structure	750	1,000
6	Confinement building	750	1,000
7	Egg washwater storage		
8	structure	750	1,000

9 2. The following table represents the minimum separation
10 distance in feet required between animal feeding operation
11 structures and a public use area or the corporate limits of a
12 city:

13	Minimum separation		Minimum separation
14	distance in feet		distance in feet
15	for operations		for operations
16	having an animal		having an animal
17	weight capacity		weight capacity of
18	of less than		625,000 or more
19	625,000 pounds		pounds for animals
20	for animals other		other than beef
21	than beef cattle,		cattle, or 1,600,000
22	or less than		or more pounds for
23	1,600,000 pounds		beef cattle
24	Type of structure		
25	Animal feeding		
26	operation structure	1,250	1,875

27 Sec. 11. NEW SECTION. 455B.163 DISTANCE SEPARATION
28 REQUIREMENTS FOR ANIMAL FEEDING OPERATIONS -- EXPANSION OF
29 STRUCTURES CONSTRUCTED PRIOR TO THE EFFECTIVE DATE OF THIS
30 ACT.

31 An animal feeding operation, utilizing an animal feeding
32 operation structure which is constructed before the effective
33 date of this Act, and which does not comply with the distance
34 requirements of section 455B.162, may continue to operate
35 regardless of those separation distance requirements. The

1 animal feeding operation may be expanded on or after the
2 effective date of this Act, regardless of those separation
3 distances, if all of the following apply to the expansion:

4 1. No portion of the animal feeding operation structure
5 after expansion is closer than before expansion to a location
6 or object for which separation is required under section
7 455B.162.

8 2. The animal weight capacity of the animal feeding
9 operation as expanded is not more than the lesser of the
10 following:

11 a. Double its capacity on the effective date of this Act.

12 b. Either of the following:

13 (1) Six hundred twenty-five thousand pounds animal weight
14 capacity for animals other than beef cattle.

15 (2) One million six hundred thousand pounds animal weight
16 capacity for beef cattle.

17 Sec. 12. NEW SECTION. 455B.164 DISTANCE MEASUREMENTS.

18 All distances between locations or objects provided in this
19 part shall be measured from their closest points, as provided
20 by rules adopted by the department.

21 Sec. 13. NEW SECTION. 455B.165 DISTANCE SEPARATION
22 REQUIREMENTS -- EXEMPTIONS.

23 A separation distance requirement provided in this part
24 shall not apply to the following:

25 1. An animal feeding operation structure which is
26 constructed or expanded, if the titleholder of the land
27 benefiting from the distance separation requirement executes a
28 written waiver with the titleholder of the land where the
29 structure is located, under such terms and conditions that the
30 parties negotiate. The written waiver becomes effective only
31 upon the recording of the waiver in the office of the recorder
32 of deeds of the county in which the benefited land is located.
33 The filed waiver shall preclude enforcement by the state of
34 this part as it relates to the animal feeding operation
35 structure.

1 2. An animal feeding operation which is constructed or
2 expanded within the corporate limits of a city, or the area
3 within a separation distance required pursuant to this part,
4 if the city approves a waiver which shall be memorialized in
5 writing. The written waiver becomes effective only upon
6 recording the waiver in the office of the recorder of deeds of
7 the county in which the benefited land is located. The filed
8 waiver shall preclude enforcement by the state of this part as
9 it relates to the animal feeding operation structure.

10 However, this subsection shall not affect a separation
11 distance required between residences as provided in this part.

12 3. An animal feeding operation structure which is located
13 within any distance from a residence, educational institution,
14 religious institution, city, or public use area, if the
15 residence, educational institution, or religious institution
16 was constructed or expanded, or the boundaries of the city or
17 public use area were expanded, after the date that the animal
18 feeding operation was established. The date the animal
19 feeding operation was established is the date on which the
20 animal feeding operation commenced operating. A change in
21 ownership or expansion of the animal feeding operation shall
22 not change the established date of operation.

23 Sec. 14. Section 455B.171, Code 1995, is amended by adding
24 the following new subsections:

25 NEW SUBSECTION. 1A. "Animal feeding operation" means a
26 lot, yard, corral, building, or other area in which animals
27 are confined and fed and maintained for forty-five days or
28 more in any twelve-month period, and all structures used for
29 the storage of manure from animals in the animal feeding
30 operation. Two or more animal feeding operations under common
31 ownership or management are deemed to be a single animal
32 feeding operation if they are adjacent or utilize a common
33 area or system for manure disposal.

34 NEW SUBSECTION. 1B. "Confinement feeding operation" means
35 the same as defined in section 455B.161.

1 NEW SUBSECTION. 7A. "Manure" means the same as defined in
2 section 455B.161.

3 NEW SUBSECTION. 7B. "Manure sludge" means the solid or
4 semisolid residue produced during the treatment of manure in
5 an anaerobic lagoon.

6 Sec. 15. Section 455B.173, subsection 3, unnumbered
7 paragraph 1, Code 1995, is amended to read as follows:

8 Establish, modify, or repeal rules relating to the
9 location, construction, operation, and maintenance of disposal
10 systems and public water supply systems and specifying the
11 conditions, including the viability of a system pursuant to
12 section 455B.174, under which the director shall issue,
13 revoke, suspend, modify, or deny permits for the operation,
14 installation, construction, addition to, or modification of
15 any disposal system or public water supply system, or for the
16 discharge of any pollutant ~~or-for-the-disposal-of-water-wastes~~
17 ~~resulting-from-poultry-and-livestock-operations~~. The rules
18 specifying the conditions under which the director shall issue
19 permits for the construction of an electric power generating
20 facility subject to chapter 476A shall provide for issuing a
21 conditional permit upon the submission of engineering
22 descriptions, flow diagrams and schematics that qualitatively
23 and quantitatively identify effluent streams and alternative
24 disposal systems that will provide compliance with effluent
25 standards or limitations.

26 Sec. 16. Section 455B.173, Code 1995, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 12. Adopt, modify, or repeal rules
29 relating to the construction or operation of animal feeding
30 operations. The rules shall include, but are not limited to,
31 minimum manure control requirements, requirements for
32 obtaining permits, and departmental evaluations of animal
33 feeding operations. The department shall collect an indemnity
34 fee as provided in section 204.3 prior to the issuance of a
35 construction permit. The department shall deposit moneys

1 collected in indemnity fees in the manure storage indemnity
2 fund created in section 204.2. The department shall issue a
3 permit for the construction of an animal feeding operation, if
4 an application is submitted according to procedures required
5 by the department, and the application meets standards
6 established by the department, regardless of whether the
7 animal feeding operation is required to obtain such a permit.
8 Prior to granting a permit to a person for the construction of
9 an animal feeding operation, the department may require the
10 installation and operation of a hydrological monitoring system
11 for an exclusively earthen manure storage structure, if, after
12 an on-site inspection, the department determines that the site
13 presents an extraordinary potential for groundwater pollution.
14 A person shall not obtain a permit for the construction of a
15 confinement feeding operation, unless the person develops a
16 manure management plan as provided in section 455B.203. The
17 department shall not issue a permit to a person under this
18 subsection if an enforcement action by the department,
19 relating to a violation of this chapter concerning a
20 confinement feeding operation in which the person has an
21 interest, is pending.

22 Sec. 17. Section 455B.191, Code 1995, is amended by adding
23 the following new subsections:

24 NEW SUBSECTION. 7. The department may impose an
25 additional civil penalty on a person required to obtain a
26 permit for the construction of a confinement feeding
27 operation, if the person has committed more than one violation
28 of this chapter or a rule adopted by the department pursuant
29 to this chapter relating to the confinement feeding operation.
30 The total amount of the additional civil penalty shall not
31 exceed five thousand dollars for each occurrence that a
32 penalty is assessed.

33 NEW SUBSECTION. 8. Moneys assessed and collected in civil
34 penalties imposed pursuant to this section on a person
35 required to obtain a permit for the construction of a

1 confinement feeding operation shall be deposited in the manure
2 storage indemnity fund as created in section 204.2.

3 ANIMAL FEEDING OPERATIONS

4 Sec. 18. NEW SECTION. 455B.201 MINIMUM MANURE CONTROL.

5 1. A confinement feeding operation shall retain all manure
6 produced by the operation between periods of manure disposal.

7 A confinement feeding operation shall not discharge manure
8 directly into water of the state or into a tile line that
9 discharges directly into water of the state.

10 2. Manure from an animal feeding operation shall be
11 disposed of in a manner which will not cause surface or
12 groundwater pollution. Disposal in accordance with this
13 chapter, rules adopted pursuant to this chapter, guidelines
14 adopted pursuant to this chapter, and section 159.27 shall be
15 deemed as compliance with this requirement.

16 Sec. 19. NEW SECTION. 455B.202 MANURE MANAGEMENT
17 PRACTICES.

18 1. The department shall adopt rules for manure management
19 practices by persons required to obtain a permit for the
20 construction of a confinement feeding operation which shall
21 include the following:

22 a. Requirements for the submission and approval of a
23 manure management plan as provided in section 455B.203.

24 b. Manure application practices, including manure
25 application rates on land based on the production of
26 designated crops and according to crop schedules. The
27 application rates shall be based on nitrogen use levels of
28 designated crops, if the land where the manure is applied does
29 not exceed soil loss limits. The department shall establish
30 manure application rates based on phosphorus use levels of
31 designated crops, and phosphorus levels in the soil if the land
32 where the manure is applied exceeds soil loss limits.

33 c. The testing and management of manure sludge contained
34 in an anaerobic lagoon.

35 d. The application of manure sludge to land based on the

1 phosphorus content of the sludge, the phosphorus needs of the
2 crops, and the phosphorus levels in the soil.

3 2. The department shall consider adopting requirements
4 which distinguish between practices based on different types
5 of manures, topography, ground cover, soil conditions, and the
6 vulnerability of surface and groundwater to contamination.

7 3. The department shall adopt rules based on
8 recommendations submitted by Iowa state university and the
9 division of soil conservation of the department of agriculture
10 and land stewardship.

11 Sec. 20. NEW SECTION. 455B.203 MANURE MANAGEMENT PLAN
12 REQUIREMENTS.

13 1. A person shall not receive a permit for the
14 construction of a confinement feeding operation as provided in
15 section 455B.173, unless the person submits and complies with
16 a manure management plan in accordance with rules which shall
17 be adopted by the department pursuant to chapter 17A. The
18 plan shall provide for the application of manure in a manner
19 that is consistent with manure management practices provided
20 in section 455B.202.

21 2. A manure management plan shall include, but is not
22 limited to, the following:

23 a. Calculations to determine the land area required for
24 application of manure from the confinement feeding operation
25 for the crop schedule specified in the plan.

26 b. The rate of manure application which shall be
27 consistent with the requirements of section 455B.202.

28 c. A crop schedule for land subject to application.

29 d. Manure sludge practices as required pursuant to
30 subsection 3.

31 3. A person operating a confinement feeding operation
32 which utilizes an anaerobic lagoon shall include a provision
33 for manure sludge management. The department shall adopt
34 rules for manure sludge management. The rules may include a
35 requirement that following approval of the plan by the

1 department, the depth of sludge be periodically determined,
2 the manure sludge tested for phosphorus content, and the
3 results of the test submitted to the department. The
4 department shall determine whether the person shall be
5 required to remove the manure sludge. If applied to land, the
6 department shall determine application practices pursuant to
7 section 455B.202, subsection 1, paragraphs "c" and "d", based
8 on the information submitted by the person and standards
9 recommended by Iowa state university.

10 4. A person receiving a permit for the construction of a
11 confinement feeding operation shall maintain a current manure
12 management plan and maintain records sufficient to demonstrate
13 compliance with the manure management plan. Chapter 22 shall
14 not apply to the records which shall be kept confidential by
15 the department and its agents and employees. The contents of
16 the records are not subject to disclosure except as follows:

17 a. Upon waiver by the person receiving the permit.

18 b. In an action or administrative proceeding commenced
19 under this chapter. Any hearing related to the action or
20 proceeding shall be closed.

21 c. When required by subpoena or court order.

22 5. The department may inspect the confinement feeding
23 operation at any time during normal working hours, and may
24 inspect records required to be maintained as part of the
25 manure management plan. However, in order to access the
26 operation, the departmental inspector must comply with
27 standard disease control restrictions customarily required by
28 the operation.

29 6. A person required to submit a manure management plan
30 who is found in violation of the terms and conditions of the
31 plan shall not be subject to an enforcement action other than
32 assessment of a civil penalty pursuant to section 455B.191.

33 Sec. 21. NEW SECTION. 455B.204 DISTANCE REQUIREMENTS.

34 1. An animal feeding operation structure shall be located
35 at least two hundred feet away from the surface intake of an

1 agricultural drainage well, sinkhole, or a lake, river, or
2 stream located within the territorial limits of the state, any
3 marginal river area adjacent to the state, which can support a
4 floating vessel capable of carrying one or more persons during
5 a total of a six-month period in one out of ten years,
6 excluding periods of flooding. However, no distance
7 separation is required between a location or object and a farm
8 pond or privately owned lake, as defined in section 462A.2.

9 All distances between locations or objects shall be
10 measured from their closest points, as provided by rules
11 adopted by the department.

12 2. A person shall not dispose of manure closer to a
13 sinkhole, well, cistern, abandoned well, plugged agricultural
14 drainage well, drainage well surface inlet, drinking water
15 well, water impoundment or other similar area, as provided
16 pursuant to section 159.27.

17 Sec. 22. NEW SECTION. 657.11 ANIMAL FEEDING OPERATIONS.

18 1. The purpose of this section is to protect animal
19 agricultural producers who manage their operations according
20 to state and federal requirements from the costs of defending
21 nuisance suits, which negatively impact upon Iowa's
22 competitive economic position and discourage persons from
23 entering into animal agricultural production. This section is
24 intended to promote the expansion of animal agriculture in
25 this state by protecting persons engaged in the care and
26 feeding of animals. The general assembly has balanced all
27 competing interests and declares its intent to protect and
28 preserve animal agricultural production operations which
29 comply with the requirements of this section.

30 2. If a person obtains all applicable permits as required
31 in chapter 455B for the construction of an animal feeding
32 operation as defined in section 455B.161, the animal feeding
33 operation shall not be found to be a public or private
34 nuisance, under this chapter or under principles of common
35 law, regardless of the established date of the animal feeding

1 operation's construction or expansion, or whether the person
2 is required to obtain the permits or has obtained the permits
3 voluntarily. This nuisance suit protection includes
4 protection for, but is not limited to, the care or feeding of
5 animals; the handling or transportation of animals; the
6 treatment or disposal of wastes resulting from animals; the
7 transportation and application of animal wastes; and the
8 creation of noise, odor, dust, or fumes arising from an animal
9 feeding operation.

10 3. The nuisance suit protection provided in this section
11 does not apply to a nuisance action brought against an animal
12 feeding operation, which arises out of any of the following:

13 a. A violation of a federal statute or regulation or state
14 statute or rule involving the operation.

15 b. The negligent manner in which an animal feeding
16 operation is conducted.

17 c. Pollution or change in condition of the waters of a
18 stream, the overflowing of water of the animal feeding
19 operation onto another person's land, or excessive soil
20 erosion onto another person's land, caused by the animal
21 feeding operation, unless the injury or damage is caused by an
22 act of God.

23 d. An injury to a person or damages to property caused by
24 the animal feeding operation before the effective date of this
25 Act. If the applicable permits are obtained on or after the
26 effective date of this Act, the nuisance suit protection does
27 not apply to injury or damages caused before the date the
28 applicable permits are obtained.

29 4. A plaintiff in a losing cause of action is liable to
30 the defendant for all costs and expenses incurred in the
31 defense of the action, if the cause of action is based on a
32 claim of a public or private nuisance. The costs shall
33 include but are not limited to reasonable attorney fees, court
34 costs, travel expenses, and other related incidental expenses.

35 Sec. 23. CONSULTATION WITH INTERESTED ORGANIZATIONS. The

1 department of natural resources shall request that the Iowa
2 pork producers association, the Iowa cattlemen's association,
3 the Iowa poultry association, the Iowa dairy association, Iowa
4 state university, and the natural resources conservation
5 service of the United States department of agriculture each
6 appoint one member to consult with the department regarding
7 this Act, rules adopted pursuant to this Act, and the Act's
8 implementation. If the natural resources conservation service
9 refuses to consult with the department, the department shall
10 consult with a person designated by the soil conservation
11 division of the department of agriculture and land
12 stewardship. The department shall consult with
13 representatives in meetings which shall be conducted by the
14 department, upon the call of the director of the department or
15 the director's designee, or upon the request to the department
16 of any three members. The department shall request that the
17 representatives provide the department with recommendations
18 regarding the adoption of rules required to administer this
19 Act. This section is repealed on March 31, 2005.

20 Sec. 24. INDEMNITY FEES -- PRIOR PERMITTEES. The
21 indemnity fee imposed upon permittees pursuant to section
22 204.3, as enacted in this Act, shall be imposed upon all
23 persons who have received a permit by the department of
24 natural resources for the construction of a confinement
25 feeding operation with a manure storage structure as defined
26 in section 455B.161, as enacted in this Act, prior to the
27 effective date of this Act. However, an indemnity fee shall
28 not be imposed upon a person who has received a construction
29 permit more than ten years prior to the effective date of this
30 Act. To every extent possible, the department shall notify
31 all persons required to pay the fee. The notice shall be in
32 writing. The department shall establish a date when the fees
33 must be paid to the department, which shall be not less than
34 three months after the delivery of the notice. If a person is
35 delinquent in paying the indemnity fee when due, or if upon

1 examination, an underpayment of the fee is found by the
2 department, the person is subject to a penalty of ten dollars
3 or an amount equal to the amount of deficiency for each day of
4 the delinquency, whichever is less. After the date required
5 for payment, the department shall transfer all outstanding
6 claims to the department of agriculture and land stewardship.
7 The department of natural resources shall deliver to the
8 department of agriculture and land stewardship the most
9 current available information regarding the persons required
10 to pay the fee and any delinquency penalty, including the
11 names and addresses of the persons, and the capacity of the
12 confinement feeding operations subject to the permit. The
13 department of agriculture and land stewardship, in cooperation
14 with the attorney general, may bring a court action in order
15 to collect indemnity fees and delinquency penalties required
16 to be paid under this section.

17 Sec. 25. NOTICE. The department of natural resources
18 shall provide a written notice to persons required to develop
19 and comply with a manure management plan as provided in
20 section 455B.203, as enacted in this Act, not later than nine
21 months after the effective date of this Act. The notice shall
22 include information from section 455B.203, as enacted by this
23 Act, regarding delayed dates of compliance.

24 Sec. 26. DELAYED IMPLEMENTATION OF CERTAIN REQUIREMENTS.
25 Notwithstanding this Act, the following shall apply:

26 1. The department of natural resources shall adopt all
27 rules required to implement section 455B.203, as enacted by
28 this Act, not later than six months following the effective
29 date of this Act.

30 2. A person issued a permit for the construction of a
31 confinement feeding operation before the effective date of
32 this Act shall submit a manure management plan to the
33 department of natural resources not later than one year after
34 the adoption of departmental rules necessary to implement the
35 manure management plan requirements of section 455B.203, as

1 enacted in this Act. However, if a person required to submit
2 a delayed plan pursuant to this subsection violates section
3 455B.202, the person shall be required to submit the plan to
4 the department not later than one hundred twenty days
5 following notice by the department.

6 Sec. 27. EFFECTIVE DATE. This Act, being deemed of
7 immediate importance, takes effect upon enactment.

8 EXPLANATION

9 This bill provides for the regulation of animal feeding
10 operations.

11 The bill provides that the department of agriculture and
12 land stewardship must adopt rules relating to the disposal of
13 manure in close proximity to water sources. The bill provides
14 that a person shall not dispose of manure on cropland within
15 50 feet from such sources.

16 The bill establishes a manure storage indemnity fund.
17 Moneys in the fund are collected from fees required to be paid
18 by persons receiving construction permits for confinement
19 feeding operations based on the animal unit capacity of the
20 facility. The fund is administered by the department of
21 agriculture and land stewardship. The purpose of the fund is
22 to reimburse counties for expenses related to removing and
23 disposing of manure from a manure storage structure, and to
24 pay the administrative costs of the department. The
25 department must determine if a claim is eligible and pay for
26 the removal and disposal based upon a bid submitted by the
27 county or bids let by the department. Upon a determination
28 that a claim is eligible, the department must provide for
29 payment of 50 percent of the claim, but not more than
30 \$150,000.

31 The bill amends provisions in Division II of chapter 455B.
32 The division provides for air quality standards within the
33 chapter which relates to environmental protection. The bill
34 provides a number of distance requirements which are
35 applicable to animal feeding operations and associated

1 structures, including confinement buildings, anaerobic
2 lagoons, earthen manure storage basins, formed manure storage
3 structures, and egg washwater storage structures. The
4 distance requirement must separate operations and residences,
5 commercial establishments, bona fide religious institutions,
6 educational institutions, cities, and public use areas. The
7 bill limits the expansion of an animal feeding operation if
8 the operation was constructed or expanded prior to the
9 effective date of the bill. The bill also provides exceptions
10 to the separation distance requirements.

11 The bill amends provisions in Division III of chapter 455B.
12 That division provides for water quality standards. The bill
13 provides for the issuance of construction permits for the
14 operation of animal feeding operations, and provides for
15 departmental rule-making authority relating to minimum manure
16 control requirements. The department is required to provide
17 for the issuance of permits, if an application is submitted
18 according to the procedures required by the department, and
19 the application meets standards established by the department,
20 regardless of whether the operation is required to obtain such
21 a permit. The bill requires the department to adopt rules
22 relating to manure application practices by persons required
23 to obtain a permit for the construction of a confinement
24 feeding operation. The bill provides that a person cannot
25 receive a construction permit for a confinement feeding
26 operation, unless the person develops and complies with a
27 manure management plan. The plan must provide for the
28 application of manure in a manner that is consistent with
29 manure management practices required in the bill. The bill
30 provides that the department may impose an additional civil
31 penalty on a person required to obtain a permit for the
32 construction of a confinement feeding operation, if the person
33 has committed more than one violation of chapter 455B or rules
34 adopted pursuant to the chapter.

35 The bill provides that if a person obtains all applicable

1 permits as required in chapter 455B for the construction of an
2 animal feeding operation, the operation shall not be found to
3 be a public or private nuisance, regardless of whether the
4 person is required to obtain the permits or has obtained the
5 permits voluntarily. The nuisance suit protection does not
6 apply to an animal feeding operation, if the operation
7 violates a federal statute or regulation or state statute or
8 rule relating to the operation, if the operation is conducted
9 in a negligent manner, or if the operation causes pollution or
10 a change in condition of the waters of a stream, the
11 overflowing of water onto another person's land, or excessive
12 soil erosion onto another person's land. The protection also
13 does not apply to an injury to a person or damages to property
14 caused by the operation before the effective date of the bill.
15 A plaintiff in a losing cause of action is liable to the
16 defendant for all costs and expenses incurred in the defense
17 of the action.

18 The bill requires the department of natural resources to
19 consult with a number of interested agricultural organizations
20 when adopting rules relating to the bill and implementing the
21 bill's provisions. The bill provides for the collection of
22 indemnify fees from permittees who obtained construction
23 permits prior to the effective date of the bill. The bill
24 provides for the adoption of rules by the department of
25 natural resources, and the delayed implementation of
26 provisions in the Act relating to the submission of manure
27 management plans.

28 The bill becomes effective upon enactment.

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HOUSE FILE 519
FISCAL NOTE

A fiscal note for House File 519 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 519 provides for the regulation of animal feeding operations, fees, the expenditure of moneys, penalties, and an effective date.

ASSUMPTIONS

The following assumptions were used in determining the fiscal impact of House File 519.

1. There were 454 construction permits granted by the Department of Natural Resources from January 1, 1984 to December 31, 1994.
2. The indemnity fund estimate does not include any fines or penalties that may go to the Fund.
3. The estimated number of total animal units for the 454 construction permits are 19,400 units for poultry and 846,334 units for other animals.
4. The indemnity fund fees are based on two cents per animal unit for poultry and five cents per animal unit for other animals.
5. The estimate of new permits issued in subsequent years is based on the average from the past five years, 90 construction permits. The estimate will remain at this level for all future years.
6. The Department of Natural Resources is responsible for regulation, the establishment and administration of rules, and the establishment and administration for the certification program of manure plan managers.
7. Up to 2.0% of the yearly fees of the indemnity fund may be allocated for administrative costs.
8. Costs to cleanup abandoned storage lagoons will be the responsibility of the State (50.0%) and the county (50.0%). Manure would have no resale value.

FISCAL IMPACT

The estimated impact of HF 519 is as follows:

Indemnity Fund:

The Department of Agriculture and Land Stewardship estimates that the fees from construction permits issued prior to 1995 and still in operation would be \$388 for poultry and \$42,557 for other animals, totaling \$42,945. The estimated fees for the 1995 construction permits would be \$55 for poultry and \$6,965 for other animals, totaling \$7,020.

The maximum amount the Department of Agriculture and Land Stewardship could receive for administrative costs would be 2.0% of the yearly fees. The first

-2-

year would allow a maximum of \$859 to be allocated to the Department for administering the indemnity fund. The maximum amount to be allocated in subsequent years would be \$140 per year to administer the indemnity fund. The Department of Agriculture and Land Stewardship estimates the actual administrative costs at \$9,025 for the first year and \$1,455 for each subsequent year. The shortfall between the estimated fees and the estimated administrative cost would be \$8,166 for the first year and \$1,315 each subsequent year.

Possible clean up costs of manure storage lagoons:

The following is an example of the costs associated with various size storage lagoons.

Based on no value for animal nutrients and wet cleanup prices charged by commercial haulers using liquid tank wagons and pumps which handle solids and liquids, the current price charged for disposing of wet wastes ranges from one half cent to one cent per gallon. The majority of the construction permits that have been issued have a capacity of less than 3,200 animal units (8,000 hogs). The following table demonstrates the possible clean up costs for anaerobic lagoons of various capacities based on the above conditions.

Estimated Cleanup Cost for Lagoons

Animal Units/ Hog Capacity	Total Current Liquid Volume (app. gallons)	Cleanup Cost at \$.005	Cleanup Cost at \$.01
00/1,000	2,100,000	\$ 10,500	\$ 21,000
,560/3900	8,200,000	\$ 41,000	\$ 82,000
,200/8,000	17,000,000	\$ 85,000	\$ 170,000
,600/24,000	60,000,000	\$ 300,000	\$ 600,000

Department of Natural Resources:

The Department of Natural Resources estimates an increase of 3.0 FTE positions in FY 1996 to meet the regulatory and program needs established within this Bill. The 3.0 FTE positions have an estimated cost of \$148,000 annually. In FY 1997 the Department estimates an additional 6.0 FTE positions will be needed. The six additional FTE positions would cost \$320,000 annually. Total State costs in FY 1997 and future years would be approximately \$470,000.

(LSB 1763hv, AMF)

FILED APRIL 3, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 519

H-3567

- 1 Amend House File 519 as follows:
2 1. Page 13, line 33, by inserting after the word
3 "operations." the following: "The department shall
4 not approve a permit for the construction of an animal
5 feeding operation or animal feeding operation
6 structure, unless the applicant files a statement
7 approved by the county board of supervisors or a
8 designee of the board, where the construction is to
9 occur, that the county board of supervisors or
10 designee has approved the construction site."

By FALLON of Polk

H-3567 FILED MARCH 29, 1995

Lost 4-4-95 (P. 1227)

HOUSE FILE 519

H-3568

- 1 Amend House File 519 as follows:
2 1. Page 4, line 30, by striking the word "fifty"
3 and inserting the following: "one hundred".
4 2. Page 4, by striking lines 31 and 32 and
5 inserting the following: "percent of the claim, as
6 provided in this section. If".

By FALLON of Polk

H-3568 FILED MARCH 29, 1995

Lost Sp. 4-3-95 (P. 1173)

HOUSE FILE 519

H-3569

- 1 Amend House File 519 as follows:
2 1. Page 1, by inserting before line 1 the
3 following:
4 "Section 1. LEGISLATIVE INTERIM STUDY. The
5 legislative council is requested to establish an
6 interim study committee to consider the impact of
7 large confinement feeding operations upon family farm
8 agriculture in this state."
9 2. By renumbering as necessary.

By FALLON of Polk

H-3569 FILED MARCH 29, 1995

Lost 4/3/95 (P. 1167)

HOUSE FILE 519

H-3570

- 1 Amend House File 519 as follows:
2 1. Page 18, line 8, by inserting after the figure
3 "462A.2" the following: ", unless the farm pond or
4 privately owned lake would be detrimentally impacted
5 by manure escaping from the animal feeding operation
6 structure, by overflow or a failure of the structure
7 to contain the manure".

By FALLON of Polk

H-3570 FILED MARCH 29, 1995

Lost 4-4-95 (P. 1231)

HOUSE FILE 519

H-3564

1 Amend House File 519 as follows:

2 1. By striking page 9, line 20, through page 10,
3 line 8, and inserting the following:

4		"Minimum	
5		separation	
6		distance	
7	Minimum	in feet	Minimum
8	separation	for opera-	separation
9	distance	tions hav-	distance
10	in feet	ing an	in feet
11	for opera-	animal	for opera-
12	tions hav-	weight ca-	tions hav-
13	ing an	capacity of	ing an
14	animal	625,000	animal
15	weight ca-	or more	weight ca-
16	capacity of	pounds but	capacity of
17	less than	less than	1,250,000
18	625,000	1,250,000	or more
19	pounds	pounds	pounds
20	for	for ani-	for
21	animals	mals other	animals
22	other	than beef	other
23	than	cattle, or	than
24	beef	1,600,000	beef
25	cattle,	or more	cattle, or
26	or less	pounds but	3,200,000
27	than	less than	or more
28	1,600,000	3,200,000	pounds
29	pounds	pounds	for
30	for beef	for beef	beef
31	cattle	cattle	cattle
32	Type of structure		
33	Animal feeding		
34	operation structure	1,250	1,875
35			2,500".

34 2. Page 10, by striking lines 13 through 26 and
35 inserting the following:

36		"Minimum	
37		separation	
38		distance	
39	Minimum	in feet	Minimum
40	separation	for opera-	separation
41	distance	tions hav-	distance
42	in feet	ing an	in feet
43	for opera-	animal	for opera-
44	tions hav-	weight ca-	tions hav-
45	ing an	capacity of	ing an
46	animal	625,000	animal
47	weight ca-	or more	weight ca-
48	capacity of	pounds but	capacity of
49	less than	less than	1,250,000
50	625,000	1,250,000	or more

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Page 2

1	pounds	pounds	pounds
2	for	for ani-	for
3	animals	mals other	animals
4	other	than beef	other
5	than	cattle, or	than
6	beef	1,600,000	beef
7	cattle,	or more	cattle, or
8	or less	pounds but	3,200,000
9	than	less than	or more
10	1,600,000	3,200,000	pounds
11	pounds	pounds	for
12	for beef	for beef	beef
13	Type of structure	cattle	cattle
14	Animal feeding		
15	operation structure	1,250	1,875
			2,500".

By DREES of Carroll

H-3564 FILED MARCH 29, 1995

Lost 4-4-95 (P.1226)

HOUSE FILE 519

H-3565

1 Amend House File 519 as follows:

2 1. Page 5, by inserting after line 31 the

3 following:

4 "Sec. ____ . Section 441.21, subsection 1, paragraph

5 e, Code 1995, is amended to read as follows:

6 e. The actual value of agricultural property shall

7 be determined on the basis of productivity and net

8 earning capacity of the property determined on the

9 basis of its use for agricultural purposes capitalized

10 at a rate of seven percent and applied uniformly among

11 counties and among classes of property. Any formula

12 or method employed to determine productivity and net

13 earning capacity of property shall be adopted in full

14 by rule. The actual valuation of property which is an

15 animal feeding operation with six hundred twenty-five

16 thousand or more pounds of animal weight capacity as

17 defined in section 455B.161 shall be assessed as

18 industrial property."

19 2. By renumbering as necessary.

By FALLON of Polk

H-3565 FILED MARCH 29, 1995

Not Referred 4/4/95 (P.1236)

HOUSE FILE 519

H-3566

1 Amend House File 519 as follows:

2 1. Page 9, line 4, by inserting after the word

3 "congregate," the following: "including, but not

4 limited to, public picnic areas, public campgrounds,

5 public lodges, public shelterhouses, public swimming

6 beaches, and public lakes listed by the department,".

By FALLON of Polk

H-3566 FILED MARCH 29, 1995

Lost 4-4-95 (P.1220)

HOUSE FILE 519

H-3563

1 Amend House File 519 as follows:

2 1. By striking page 9, line 20, through page 10,
3 line 8, and inserting the following:

4			"Minimum
5			separation
6			distance
7		Minimum	in feet
8		separation	for opera-
9		distance	tions hav-
10		in feet	ing an
11		for opera-	animal
12		tions hav-	weight ca-
13		ing an	capacity of
14		animal	625,000
15		weight ca-	or more
16		capacity of	pounds but
17		less than	less than
18		625,000	1,250,000
19		pounds	pounds
20		for	for ani-
21		animals	mals other
22		other	than beef
23		than	cattle, or
24		beef	1,600,000
25		cattle,	or more
26		or less	pounds but
27		than	less than
28		1,600,000	3,200,000
29		pounds	pounds
30		for beef	for beef
31	Type of structure	cattle	cattle
32	Anaerobic lagoon	1,250	1,875
33	Earthen manure		2,500
34	storage basin	1,250	1,875
35	Uncovered formed		2,500
36	manure storage		
37	structure	1,000	1,500
38	Covered formed		2,000
39	manure storage		
40	structure	750	1,000
41	Confinement		1,500
42	building	750	1,000
43	Egg washwater		1,500
44	storage structure	750	1,000
45	2. Page 10, by striking lines 13 through 26 and		1,500".
46	inserting the following:		
47			"Minimum
48			separation
49			distance
50		Minimum	in feet
		Minimum	

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Page 2

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 24 Type of structure
 25 Animal feeding
 26 operation structure

separation distance in feet for operations having an animal weight capacity of less than 625,000 pounds for animals other than beef cattle, or less than 1,600,000 pounds for beef cattle	for operations having an animal weight capacity of 625,000 or more pounds but less than 1,250,000 pounds for animals other than beef cattle, or more pounds but less than 3,200,000 pounds for beef cattle	separation distance in feet for operations having an animal weight capacity of 1,250,000 or more pounds but less than 3,200,000 pounds for animals other than beef cattle, or more pounds for beef cattle
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1,250 1,875 2,500".
 By DREES of Carroll

H-3563 FILED MARCH 29, 1995

Lost 4-4-95

(P. 1224)

HOUSE FILE 519

H-3529

- 1 Amend House File 519 as follows:
- 2 1. Page 11, by inserting after line 24 the
- 3 following:
- 4 "____. A confinement feeding operation structure,
- 5 other than an earthen manure storage basin, if the
- 6 structure is part of a confinement feeding operation
- 7 which has an animal capacity of two hundred or fewer
- 8 animal units as defined in section 204.1."
- 9 2. By renumbering as necessary.

By MEYER of Sac

H-3529 FILED MARCH 28, 1995

Adopted 4-4-95 (P. 1226)

HOUSE FILE 519

H-3489

- 1 Amend House File 519 as follows:
- 2 1. Page 16, by inserting after line 2 the
- 3 following:
- 4 "____. A person shall not apply manure in a liquid
- 5 form above the surface of the ground by use of a
- 6 pressurized system of dispersal, including but not
- 7 limited to a mechanical system commonly used for
- 8 irrigation, if the equipment disperses a jet or spray
- 9 of liquid manure more than twenty-five feet at any
- 10 angle, or more than fifteen feet if set at an angle of
- 11 more than forty-five degrees."
- 12 2. By renumbering as necessary.

By SHOULTZ of Black Hawk

H-3489 FILED MARCH 27, 1995

*Lost 4-4-95**(P. 1230)*

HOUSE FILE 519

H-3581

1 Amend House File 519 as follows:

2 1. Page 1, line 2, by inserting after the word
3 "AREAS" the following: " -- ADOPTION OF RULES".

4 2. Page 14, line 21, by inserting after the word
5 "pending." the following: "The department shall not
6 issue a permit to a person under this subsection for
7 five years after the date of the last offense
8 committed by a person or animal feeding operation in
9 which the person holds a controlling interest during
10 which the person or operation was classified as a
11 habitual offender under section 455B.191. The
12 department shall conduct an annual review of each
13 confinement feeding operation which is a habitual
14 offender and each confinement feeding operation in
15 which a habitual offender holds a controlling
16 interest. The department shall notify persons
17 classified as habitual offenders of their
18 classification, additional restrictions imposed upon
19 the persons pursuant to the classification, and
20 special civil penalties that may be imposed upon the
21 persons. The notice shall be sent to the persons by
22 certified mail."

23 3. Page 14, by striking lines 24 through 32 and
24 inserting the following:

25 NEW SUBSECTION. 7. The department may impose a
26 civil penalty upon a habitual offender which shall not
27 exceed twenty-five thousand dollars for each day the
28 offense continues. A person shall be classified as a
29 habitual offender, if the person has committed three
30 or more offenses as described in this subsection prior
31 to or after the effective date of this Act, and was
32 subject to the assessment of a civil penalty or a
33 court conviction, in the five years prior to the date
34 of the latest offense, counting any offense committed
35 by a confinement feeding operation in which the person
36 holds a controlling interest. A person shall be
37 removed from the classification of habitual offender
38 on the date on which the person and all animal feeding
39 operations in which the person holds a controlling
40 interest have committed less than three offenses
41 described in this subsection for the prior five years.
42 For purposes of counting offenses, a continuing and
43 uninterrupted offense shall be considered as one
44 offense. Different types of offenses shall be counted
45 as separate offenses regardless of whether the
46 offenses were committed during the same period. An
47 offense must relate to one of the following:

48 a. The construction or operation of a confinement
49 feeding operation structure or anaerobic lagoon which
50 is part of a confinement feeding operation, or the

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1 installation or use of a related pollution control
2 device or practice, for which the person must obtain a
3 permit, in violation of this chapter, or rules adopted
4 by the department, including the terms or conditions
5 of the permit.

6 b. Intentionally making a false statement or
7 misrepresenting information to the department as part
8 of an application for a construction permit for a
9 confinement feeding operation structure or anaerobic
10 lagoon which is part of a confinement feeding
11 operation, or the installation of a related pollution
12 control device or practice for which the person must
13 obtain a construction permit.

14 c. Failing to obtain a permit or approval by the
15 department in violation of this chapter or
16 departmental rule which requires a permit to construct
17 or operate a confinement feeding operation or use a
18 confinement feeding operation structure, anaerobic
19 lagoon, or a pollution control device or practice
20 which is part of a confinement feeding operation.

21 d. Operating a confinement feeding operation,
22 including a confinement feeding operation structure
23 or anaerobic lagoon which is part of a confinement
24 feeding operation, or the related pollution control
25 device or practice, which causes pollution to the
26 waters of the state, if the pollution was caused
27 intentionally, or caused by a failure to take measures
28 required to abate the pollution which resulted from an
29 act of God.

30 e. Failing to submit a manure management plan as
31 required pursuant to section 455B.203, or operating a
32 confinement feeding operation without having a manure
33 management plan approved by the department.

34 This subsection shall not apply, unless the
35 department of natural resources has previously
36 notified the person of the person's classification as
37 a habitual offender as provided in section 455B.173."

38 4. Page 16, line 17, by inserting after the
39 figure "17A." the following: "A person classified as
40 a habitual offender or a confinement feeding operation
41 in which a habitual offender owns a controlling
42 interest, pursuant to section 455B.191, must submit a
43 manure management plan to the department on an annual
44 basis, which must be approved by the department for
45 the following year of operation."

46 5. Page 17, line 25, by inserting after the word
47 "plan." the following: "The department shall
48 regularly inspect a confinement feeding operation if
49 the operation or a person holding a controlling
50 interest in the operation is classified as a habitual

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- 1 offender pursuant to section 455B.191. The department
- 2 shall assess and the confinement feeding operation
- 3 shall pay the actual costs of the inspection."

By TEIG of Hamilton
SUKUP of Franklin

H-3581 FILED MARCH 29, 1995

adopted 4-3-95 *p. 1170*

HOUSE FILE 519

H-3582

- 1 Amend House File 519 as follows:

- 2 1. Page 5, by inserting after line 31 the
- 3 following:

4 "Sec. ____ . NEW SECTION. 455B.110 INSPECTION OF

5 ANIMAL FEEDING OPERATIONS.

- 6 The department shall conduct random inspections of
- 7 animal feeding operations, including anaerobic
- 8 lagoons, and confinement feeding operation structures,
- 9 as defined in section 455B.161, aerating systems, and
- 10 manure management practices employed by the operation
- 11 as provided in section 455B.202, to ensure that such
- 12 operations comply with all applicable requirements of
- 13 this chapter and rules adopted by the department
- 14 pursuant to this chapter. However, in order to access
- 15 the operation, the departmental inspector must comply
- 16 with standard disease control restrictions customarily
- 17 required by the operation. The department shall
- 18 complete a written report for each inspection which
- 19 shall be available as a public record as provided in
- 20 chapter 22."

- 21 2. By renumbering as necessary.

By MUNDIE of Webster

H-3582 FILED MARCH 29, 1995

Lost 4-3-95
(p. 1188)

HOUSE FILE 519

H-3571

1 Amend House File 519 as follows:
2 1. Page 14, line 7, by inserting after the word
3 "permit." the following: "The department shall not
4 approve a permit for the construction of three or more
5 animal feeding operation structures which are part of
6 a single animal feeding operation, unless the
7 applicant files a statement approved by an engineer
8 for the levee or drainage district where the
9 construction is to occur, that the animal feeding
10 operation structures comply with the requirements of
11 chapter 468."

By MUNDIE of Webster

H-3571 FILED MARCH 29, 1995

*Lost 4-4-95**(P. 1227)*

HOUSE FILE 519

H-3572

1 Amend House File 519 as follows:
2 1. Page 20, lines 3 and 4, by striking the words
3 "Iowa state university" and inserting the following:
4 "the Iowa chapter of the Izaak Walton league of
5 America, the Leopold center for sustainable
6 agriculture, Iowa state university".

By MUNDIE of Webster

H-3572 FILED MARCH 29, 1995

*Lost 4-4-95**(P. 1233)*

HOUSE FILE 519

H-3580

1 Amend House File 519 as follows:
2 1. Title page, line 1, by inserting after the
3 words "for the" the following: "promotion and".
4 2. Title page, line 2, by inserting before the
5 word "fees" the following: "and providing for".

By KOENIGS of Mitchell

H-3580 FILED MARCH 29, 1995

WITHDRAWN

*4-4-95**(P. 1234)*

HOUSE FILE 519

H-3583

1 Amend House File 519 as follows:

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

4 "Sec. ____ . NEW SECTION. 331.302A CONFINEMENT
5 FEEDING OPERATIONS.

6 The board of supervisors in the county where the
7 operation is located may enforce sections 455B.202 and
8 455B.203, including rules adopted pursuant to those
9 sections. The board must deliver a notice by
10 certified mail to the department, stating that an
11 operation may be in violation of the sections or
12 departmental rules. The board shall deliver the
13 notice only after approval of the action by
14 resolution. The notice shall be in writing and shall
15 state the location of the operation, the name and
16 address of the owner, and an explanation of the
17 possible violation. The board may inform the de-
18 partment that the board reserves its right to enforce
19 the sections or rules as provided in this section, if
20 the department fails to initiate an investigation or
21 enforcement action or continue an enforcement action
22 which results in an administrative hearing or a
23 settlement of the case. The county may begin
24 enforcement proceedings after thirty days following
25 delivery of the notice, unless the department
26 commences and maintains active enforcement of the
27 sections or its rules. The county shall not initiate
28 or continue an enforcement action if the county
29 receives notice and results of the investigation by
30 the department that the department has conducted an
31 investigation and has determined that the operation is
32 not in violation of the sections or departmental
33 rules. Once the county begins an enforcement action,
34 it shall be the party in interest in the case and have
35 sole authority and responsibility to proceed with the
36 action. The county may refer any case to the attorney
37 general. The department of natural resources may
38 assume the enforcement action from the county.
39 However, if the department assumes the enforcement
40 action, the department shall be required to resolve
41 the action. The county shall bring the enforcement
42 action according to the same procedures used for a
43 county infraction as provided in section 331.307.
44 However, the civil penalty may be for any amount that
45 could be assessed by the department."

46 2. Page 16, line 17, by inserting after the
47 figure "17A." the following: "A county in which the
48 confinement feeding operation is located may require
49 that a copy of the plan be filed with the county."

50 3. Page 17, line 25, by inserting after the word

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1 "plan." the following: "A county may also inspect the
 2 confinement feeding operation and records required to
 3 be maintained as part of the manure management plan,
 4 if the county initiates an enforcement action as
 5 provided in section 331.302A."

6 4. Page 17, line 26, by striking the words "the
 7 departmental" and inserting the following: "a
 8 departmental or county".

9 5. By renumbering as necessary.

By KOENIGS of Mitchell

H-3583 FILED MARCH 29, 1995

Not Serrano 4-4-95 (P. 1220) - Motion to Suspend Rules Lost

HOUSE FILE 519

H-3584

1 Amend House File 519 as follows:

2 1. By striking page 10, line 35, through page 11,
 3 line 16, and inserting the following: "regardless of
 4 those separation distance requirements. However, the
 5 animal feeding operation shall not be expanded on or
 6 after the effective date of this Act."

By KOENIGS of Mitchell

H-3584 FILED MARCH 29, 1995

Out of Order 4-3-95 (P. 1172)

HOUSE FILE 519

H-3585

1 Amend House File 519 as follows:

2 1. By striking page 18, line 17, through page 19,
 3 line 34.

4 2. By renumbering as necessary.

By KOENIGS of Mitchell

H-3585 FILED MARCH 29, 1995

*Lost 4-4-95
 (P. 1232)*

HOUSE FILE 519

H-3586

1 Amend House File 519 as follows:

2 1. Page 18, by striking lines 30 through 33 and
3 inserting the following:

4 "2. Except as otherwise provided in this section,
5 an animal feeding operation shall not be found to be a
6 public or private".

7 2. Page 19, by striking lines 1 through 3 and
8 inserting the following: "operation's construction or
9 expansion. This nuisance suit protection includes".

10 3. Page 19, by inserting after line 9 the
11 following:

12 "____. The nuisance suit protection provided in
13 this section shall apply only to an animal feeding
14 operation, if all of the following requirements are
15 satisfied:

16 a. The animal feeding operation must receive all
17 the applicable permits as required by chapter 455B for
18 the construction of an animal feeding operation,
19 regardless of whether the permits were required to be
20 obtained or the permits were obtained voluntarily.

21 b. The animal feeding operation is established
22 after the effective date of this Act.

23 c. The location of the proposed animal feeding
24 operation must be approved by the county board of
25 supervisors in the county in which the proposed
26 operation is to be located. Within thirty days of
27 receipt of a proposal to establish the animal feeding
28 operation, the county board shall provide notice of
29 the proposal by publishing notice in a newspaper of
30 general circulation in the county. The county shall
31 also mail personal notice to each person who owns land
32 within two miles of the proposed operation. The
33 person proposing the animal feeding operation shall
34 pay reasonable expenses relating to providing the
35 notice. Within forty-five days after receipt of the
36 proposal, the county board shall hold a public hearing
37 on the proposal. Within sixty days after receipt, the
38 county board may adopt the proposal or any
39 modification of the proposal it deems appropriate."

40 4. By renumbering as necessary.

By KOENIGS of Mitchell

H-3586 FILED MARCH 29, 1995

*Lost 4-4-95
(P. 1237)*

HOUSE FILE 519

H-3587

- 1 Amend House File 519 as follows:
- 2 1. Page 19, line 30, by striking the word "all".
- 3 2. Page 19, line 34, by inserting after the word
- 4 "expenses." the following: "However, the plaintiff's
- 5 liability to the defendant shall not be more than the
- 6 same amount of all costs and expenses incurred by the
- 7 plaintiff in bringing and maintaining the cause of
- 8 action."

By KOENIGS of Mitchell

H-3587 FILED MARCH 29, 1995

Lost 4-4-95 (P. 1242)

HOUSE FILE 519

H-3588

- 1 Amend House File 519 as follows:
- 2 1. Page 19, by striking lines 29 through 34 and
- 3 inserting the following:
- 4 "____. If a defendant is a prevailing party in an
- 5 action or proceeding based on a claim of nuisance
- 6 which arises from an animal feeding operation, and if
- 7 the court determines that the claim is frivolous, the
- 8 plaintiff shall pay court costs and reasonable
- 9 attorney fees incurred by the defendant."
- 10 2. By renumbering as necessary.

By KOENIGS of Mitchell

H-3588 FILED MARCH 29, 1995

Lost 4-4-95 (P. 1243)

HOUSE FILE 519

H-3589

- 1 Amend House File 519 as follows:
- 2 1. Page 19, by striking lines 29 through 34.

By KOENIGS of Mitchell

H-3589 FILED MARCH 29, 1995

Lost 4-4-95 (P. 1237)

HOUSE FILE 519

H-3594

- 1 Amend House File 519 as follows:
- 2 1. Page 17, line 35, by striking the word "two"
- 3 and inserting the following: "five".
- 4 2. Page 18, by striking line 1 and inserting the
- 5 following: "agricultural drainage well or known
- 6 sinkhole, and at least two hundred feet away from a
- 7 lake, river, or".

By TEIG of Hamilton

H-3594 FILED MARCH 29, 1995

*Adopted 4-4-95
(P. 1230)*

HOUSE FILE 519

H-3595

1 Amend House File 519 as follows:
2 1. By striking page 1, line 12, through page 5,
3 line 31, and inserting the following:
4 "Sec. ____ . NEW SECTION. 204.1 DEFINITIONS.
5 1. "Animal unit" means a unit of measurement used
6 to determine the animal capacity of an animal feeding
7 operation, based upon the product of multiplying the
8 number of animals of each species by the following:

9 a. Slaughter and feeder cattle	1.0
10 b. Mature dairy cattle	1.4
11 c. Butcher and breeding swine, over fifty-five pounds	0.4
12 d. Sheep or lambs	0.1
13 e. Horses	2.0
14 f. Turkeys	0.018
15 g. Broiler or layer chickens	0.01

16 2. "Annual fee" means the fee provided in section
17 204.3.
18 3. "Confinement feeding operation" means a
19 confinement feeding operation as defined in section
20 455B.161.
21 4. "Department" means the department of
22 agriculture and land stewardship.
23 5. "Fund" means the manure storage indemnity fund
24 created in section 204.2.
25 6. "Manure" means animal excreta or other commonly
26 associated wastes of animals, including but not
27 limited to bedding, litter, or feed losses.
28 7. "Manure storage structure" means a structure
29 used to store manure as part of a confinement feeding
30 operation required to be constructed pursuant to a
31 permit issued by the department of natural resources
32 pursuant to section 455B.173.
33 8. "Permittee" means a person who obtains a permit
34 for the construction of a confinement feeding
35 operation, if a manure storage structure is connected
36 to the confinement feeding operation.
37 Sec. ____ . NEW SECTION. 204.2 MANURE STORAGE
38 INDEMNITY FUND.
39 1. A manure storage indemnity fund is created as a
40 separate fund in the state treasury under the control
41 of the department. The general fund of the state is
42 not liable for claims presented against the fund.
43 2. The fund consists of moneys from annual fees
44 remitted by manure storage permittees as provided in
45 section 204.3; delinquency penalties; sums collected
46 on behalf of the fund by the department through legal
47 action or settlement; moneys required to be repaid to
48 the department by a county pursuant to this chapter;
49 civil penalties assessed and collected by the
50 department of natural resources pursuant to section

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1 455B.191, against persons required to obtain a permit
2 for the construction of a confinement feeding
3 operation; moneys paid as a settlement involving an
4 enforcement action for a civil penalty subject to
5 assessment and collection by the department of natural
6 resources pursuant to section 455B.191; interest,
7 property, and securities acquired through the use of
8 moneys in the fund; or moneys contributed to the fund
9 from other sources.

10 3. The moneys collected under this section and
11 deposited in the fund shall be used exclusively to
12 indemnify a county for expenses related to removing
13 and disposing of manure from a manure storage
14 structure, and to pay the administrative costs of this
15 chapter. The moneys in the fund are appropriated to
16 and for this purpose. Moneys in the fund shall not be
17 subject to appropriation for any other purpose.

18 4. The treasurer of state shall act as custodian
19 of the fund and disburse amounts contained in the fund
20 as directed by the department. The treasurer of state
21 is authorized to invest the moneys deposited in the
22 fund. The income from such investment shall be
23 credited to and deposited in the fund.

24 Notwithstanding section 8.33, moneys in the fund are
25 not subject to reversion. The fund shall be
26 administered by the department which shall make
27 expenditures from the fund consistent with the
28 purposes set out in this chapter. The moneys in the
29 fund shall be disbursed upon warrants drawn by the
30 director of revenue and finance pursuant to the order
31 of the department. The fiscal year of the fund begins
32 July 1. The finances of the fund shall be calculated
33 on an accrual basis in accordance with generally
34 accepted accounting principles. The auditor of state
35 shall regularly perform audits of the fund.

36 Sec. ____ . NEW SECTION. 204.3 FEES.

37 1. a. A permittee shall pay an annual fee to the
38 department of agriculture and land stewardship which
39 shall be remitted to the department as provided in
40 rules adopted by the department. The department shall
41 establish four payment dates each year beginning July
42 1 and which shall be three months apart. A permittee
43 who has been issued a construction permit for a
44 confinement feeding operation prior to the effective
45 date of this Act shall pay the annual fee on a payment
46 date specified by the department, but not earlier than
47 the second payment date following the effective date
48 of this Act. A permittee who has received a
49 construction permit on or after the effective date of
50 this Act shall make the full annual payment on the

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1 second payment date after the construction permit is
2 issued by the department. A permittee shall pay the
3 annual fee to the department on each anniversary of
4 the payment date. The department shall provide notice
5 in writing to a permittee within one month prior to
6 the permittee's payment date.

7 b. The annual fee shall equal ten cents per animal
8 unit of capacity for confinement feeding operations
9 housing poultry and twenty-four cents per animal unit
10 of capacity for confinement feeding operations housing
11 other species of animals. The fee shall not be paid,
12 if the confinement feeding operation does not house
13 any animals or store manure for three consecutive
14 months prior to the permittee's payment date. If the
15 animal feeding operation again houses animals or
16 stores manure, the permittee shall pay the department
17 by the next payment date and subsequently on each
18 anniversary of that payment date. The permittee shall
19 notify the department if a fee is not owing within one
20 month prior to the permittee's payment date.

21 c. A permittee is delinquent if the permittee
22 fails to submit the full fee when due, or if an
23 underpayment of the fee is found by the department.
24 The permittee is subject to a penalty of ten dollars
25 or an amount equal to the amount of the deficiency for
26 each day the permittee is delinquent, whichever is
27 less.

28 3. If, on March 1, the moneys of the fund, less
29 the department's estimate of the costs to the fund for
30 pending or unsettled claims, exceed one million
31 dollars, the annual fee payable pursuant to subsection
32 2 shall be waived. The department may reinstate the
33 annual fee if the moneys in the fund, less the
34 department's estimate of costs to the fund for pending
35 or unsettled claims, are less than eight hundred fifty
36 thousand dollars. The department shall reinstate the
37 annual fee if moneys in the fund, less the
38 department's estimate of the costs to the fund for
39 pending or unsettled claims, are less than seven
40 hundred fifty thousand dollars. A permittee who does
41 not make payment on or after July 1 of each fiscal
42 year shall pay the fee on the next payment date, but
43 not before one month prior to the next payment date.
44 However, a delayed payment shall not change a
45 permittee's payment date anniversary.

46 4. The department of natural resources shall
47 provide the department of agriculture and land
48 stewardship the most current available information
49 regarding the names and addresses of permittees,
50 including the capacity of the confinement feeding

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1 operations subject to the permit. The information
2 shall be delivered every three months according to
3 procedures established by the department.

4 Sec. ____ . NEW SECTION. 204.4 COLLECTION.

5 The department, in cooperation with the attorney
6 general, may bring an action in court in order to
7 collect fees required to be paid as provided in
8 section 204.3.

9 Sec. ____ . NEW SECTION. 204.5 CLAIMS AGAINST THE
10 FUND.

11 1. A county that has acquired real estate
12 containing a manure storage structure following
13 nonpayment of taxes pursuant to section 446.19 may
14 make a claim against the fund to pay the costs of
15 removing and disposing of the manure located in a
16 manure storage structure on the real estate. Each
17 claim shall include a bid by a qualified person, other
18 than a governmental entity, to remove and dispose of
19 the manure for a fixed amount specified in the bid.

20 2. The department shall determine if a claim is
21 eligible to be satisfied under this section, and do
22 one of the following:

23 a. Pay the fixed amount specified in the bid
24 submitted by the county upon completion of the work.

25 b. Obtain a lower fixed amount bid for the work
26 from another qualified person, other than a
27 governmental entity, and pay the fixed amount in this
28 bid upon completion of the work. The department is
29 not required to comply with section 18.6 in
30 implementing this section.

31 3. Upon a determination that the claim is eligible
32 for payment, the department shall provide for payment
33 of one hundred percent of the claim, as provided in
34 this section. If at any time the department
35 determines that there are insufficient moneys to make
36 payment of all claims, the department shall pay claims
37 according to the date that the claims are received by
38 the department. To the extent that a claim cannot be
39 fully satisfied, the department shall order that the
40 unpaid portion of the payment be deferred until the
41 claim can be satisfied. However, the department shall
42 not satisfy claims from moneys dedicated for the
43 administration of the fund.

44 4. In the event of payment of a claim under this
45 section, the fund is subrogated to the extent of the
46 amount of the payment to all rights, powers,
47 privileges, and remedies of the political subdivision
48 regarding the payment amount. The county shall render
49 all necessary assistance to the department in securing
50 the rights granted in this section. A case or

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1 proceeding initiated by a county which involves a
 2 claim submitted to the department shall not be
 3 compromised or settled without the consent of the
 4 department. A county shall not be eligible to submit
 5 a claim to the department if the county has
 6 compromised or settled a case or proceeding, without
 7 the consent of the department.

8 5. If upon disposition of the real estate the
 9 county realizes an amount which exceeds the total
 10 amount of the delinquent real estate taxes, the county
 11 shall forward to the fund any excess amount which is
 12 not more than the amount expended by the fund.

13 Sec. ____ . NEW SECTION. 204.6 DEPARTMENTAL RULES.
 14 The department of agriculture and land stewardship
 15 shall adopt administrative rules pursuant to chapter
 16 17A to administer this chapter.

17 Sec. ____ . NEW SECTION. 204.7 NO STATE
 18 OBLIGATION.

19 This chapter does not imply any guarantee or
 20 obligation on the part of this state, or any of its
 21 agencies, employees, or officials, either elective or
 22 appointive, with respect to any agreement or
 23 undertaking to which this chapter relates."

24 2. By striking page 13, line 33, through page 14,
 25 line 2, and inserting the following: "feeding
 26 operations. The department shall collect a
 27 construction fee of fifty dollars prior to the
 28 issuance of a construction permit. The department
 29 shall deposit moneys collected in construction fees
 30 into the general fund of the state. The department
 31 shall issue a".

32 3. Page 20, line 20, by striking the word
 33 "INDEMNITY" and inserting the following:
 34 "CONSTRUCTION".

35 4. Page 20, line 21, by striking the word
 36 "indemnity" and inserting the following:
 37 "construction".

38 5. Page 20, line 22, by striking the figure
 39 "204.3" and inserting the following: "455B.173".

40 6. Page 20, line 22, by striking the word
 41 "enacted" and inserting the following: "amended".

42 7. Page 20, line 27, by striking the word
 43 "indemnity" and inserting the following:
 44 "construction".

45 8. Page 20, line 35, by striking the word
 46 "indemnity" and inserting the following:
 47 "construction".

48 9. Page 21, line 15, by striking the word
 49 "indemnity" and inserting the following:
 50 "construction".

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1 10. By renumbering as necessary.

By KOENIGS of Mitchell

H-3595 FILED MARCH 29, 1995

*Lost 43-95
(R 1178)*

HOUSE FILE 519

H-3590

1 Amend House File 519 as follows:

2 1. Page 22, by inserting after line 5 the
3 following:

4 "Sec. _____. PILOT PROJECT -- TESTING OF ANIMAL
5 FEEDING OPERATIONS. There is appropriated out of any
6 moneys not otherwise appropriated, for allocation on
7 July 1, 1995, from the organic nutrient management
8 fund created in section 161C.5 to the department of
9 natural resources for the fiscal year beginning July
10 1, 1995, and ending June 30, 1996, any sum required to
11 conduct a study of ten animal feeding operations and
12 their structures, including confinement feeding
13 operations and confinement feeding operation
14 structures all as defined in section 455B.161 as
15 enacted in this Act, and manure management and
16 disposal systems used by such operations. The
17 operations and their structures or systems must have
18 been constructed or installed on or before July 1,
19 1985. The study shall determine the extent to which
20 operations and their structures and manure management
21 and disposal systems contribute to point and nonpoint
22 contamination of the state's groundwater and surface
23 water. A person owning or operating an animal feeding
24 operation shall cooperate with the department in
25 carrying out this section. The ten animal feeding
26 operations subject to the study shall be selected by
27 the Leopold center for sustainable agriculture as
28 created pursuant to section 266.39. The department
29 shall report its findings and recommendations to the
30 general assembly not later than January 1, 1997."
31 2. By renumbering as necessary.

By KOENIGS of Mitchell

H-3590 FILED MARCH 29, 1995

Adopted 4-4-95
(P. 1234)

HOUSE FILE 519

H-3591

1 Amend House File 519 as follows:

2 1. Page 17, line 35, by striking the word "two"
3 and inserting the following: "five".

By MUNDIE of Webster

H-3591 FILED MARCH 29, 1995

Lost 4-4-95
(P. 1230)

HOUSE FILE 519

H-3596

1 Amend House File 519 as follows:
 2 1. By striking page 1, line 12, through page 5,
 3 line 31, and inserting the following:
 4 "Sec. ____ . NEW SECTION. 204.1 DEFINITIONS.
 5 1. "Animal unit" means a unit of measurement used
 6 to determine the animal capacity of an animal feeding
 7 operation, based upon the product of multiplying the
 8 number of animals of each species by the following:

9 a. Slaughter and feeder cattle	1.0
10 b. Mature dairy cattle	1.4
11 c. Butcher and breeding swine, over fifty-five pounds	0.4
12 d. Sheep or lambs	0.1
13 e. Horses	2.0
14 f. Turkeys	0.018
15 g. Broiler or layer chickens	0.01

16 2. "Annual fee" means the fee provided in section
 17 204.3.
 18 3. "Confinement feeding operation" means a
 19 confinement feeding operation as defined in section
 20 455B.161.
 21 4. "Construction fee" means the fee provided in
 22 section 204.3.
 23 5. "Department" means the department of
 24 agriculture and land stewardship.
 25 6. "Fund" means the manure storage indemnity fund
 26 created in section 204.2.
 27 7. "Manure" means animal excreta or other commonly
 28 associated wastes of animals, including but not
 29 limited to bedding, litter, or feed losses.
 30 8. "Manure storage structure" means a structure
 31 used to store manure as part of a confinement feeding
 32 operation required to be constructed pursuant to a
 33 permit issued by the department of natural resources
 34 pursuant to section 455B.173.
 35 9. "Permittee" means a person who obtains a permit
 36 for the construction of a confinement feeding
 37 operation, if a manure storage structure is connected
 38 to the confinement feeding operation.
 39 Sec. ____ . NEW SECTION. 204.2 MANURE STORAGE
 40 INDEMNITY FUND.
 41 1. A manure storage indemnity fund is created as a
 42 separate fund in the state treasury under the control
 43 of the department. The general fund of the state is
 44 not liable for claims presented against the fund.
 45 2. The fund consists of moneys from construction
 46 fees and annual fees remitted by manure storage
 47 permittees as provided in section 204.3; delinquency
 48 penalties; sums collected on behalf of the fund by the
 49 department through legal action or settlement; moneys
 50 required to be repaid to the department by a county

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1 pursuant to this chapter; civil penalties assessed and
2 collected by the department of natural resources
3 pursuant to section 455B.191, against persons required
4 to obtain a permit for the construction of a
5 confinement feeding operation; moneys paid as a
6 settlement involving an enforcement action for a civil
7 penalty subject to assessment and collection by the
8 department of natural resources pursuant to section
9 455B.191; interest, property, and securities acquired
10 through the use of moneys in the fund; or moneys
11 contributed to the fund from other sources.

12 3. The moneys collected under this section and
13 deposited in the fund shall be used exclusively to
14 indemnify a county for expenses related to removing
15 and disposing of manure from a manure storage
16 structure, and to pay the administrative costs of this
17 chapter. The moneys in the fund are appropriated to
18 and for this purpose. Moneys in the fund shall not be
19 subject to appropriation for any other purpose.

20 4. The treasurer of state shall act as custodian
21 of the fund and disburse amounts contained in the fund
22 as directed by the department. The treasurer of state
23 is authorized to invest the moneys deposited in the
24 fund. The income from such investment shall be
25 credited to and deposited in the fund.

26 Notwithstanding section 8.33, moneys in the fund are
27 not subject to reversion. The fund shall be
28 administered by the department which shall make
29 expenditures from the fund consistent with the
30 purposes set out in this chapter. The moneys in the
31 fund shall be disbursed upon warrants drawn by the
32 director of revenue and finance pursuant to the order
33 of the department. The fiscal year of the fund begins
34 July 1. The finances of the fund shall be calculated
35 on an accrual basis in accordance with generally
36 accepted accounting principles. The auditor of state
37 shall regularly perform audits of the fund.

38 Sec. ____ . NEW SECTION. 204.3 FEES.

39 1. The department of natural resources shall
40 deposit into the fund fees collected for the issuance
41 of permits for the construction of confinement feeding
42 operations as provided in section 455B.173.

43 2. a. A permittee shall pay an annual fee to the
44 department of agriculture and land stewardship which
45 shall be remitted to the department as provided in
46 rules adopted by the department. The department shall
47 establish four payment dates each year beginning July
48 1 and which shall be three months apart. A permittee
49 who has been issued a construction permit for a
50 confinement feeding operation prior to the effective

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1 date of this Act shall pay the annual fee on a payment
2 date specified by the department, but not earlier than
3 the second payment date following the effective date
4 of this Act. A permittee who has received a
5 construction permit on or after the effective date of
6 this Act shall make the full annual payment on the
7 second payment date after the construction permit is
8 issued by the department. A permittee shall pay the
9 annual fee to the department on each anniversary of
10 the payment date. The department shall provide notice
11 in writing to a permittee within one month prior to
12 the permittee's payment date.

13 b. The annual fee shall equal five cents per
14 animal unit of capacity for confinement feeding
15 operations housing poultry and twelve and one-half
16 cents per animal unit of capacity for confinement
17 feeding operations housing other species of animals.
18 The fee shall not be paid, if the confinement feeding
19 operation does not house any animals or store manure
20 for three consecutive months prior to the permittee's
21 payment date. If the animal feeding operation again
22 houses animals or stores manure, the permittee shall
23 pay the department by the next payment date and
24 subsequently on each anniversary of that payment date.
25 The permittee shall notify the department if a fee is
26 not owing within one month prior to the permittee's
27 payment date.

28 c. A permittee is delinquent if the permittee
29 fails to submit the full fee when due, or if an
30 underpayment of the fee is found by the department.
31 The permittee is subject to a penalty of ten dollars
32 or an amount equal to the amount of the deficiency for
33 each day the permittee is delinquent, whichever is
34 less.

35 3. If, on March 1, the moneys of the fund, less
36 the department's estimate of the costs to the fund for
37 pending or unsettled claims, exceed five hundred
38 thousand dollars, the annual fee payable pursuant to
39 subsection 2 shall be waived. The department may
40 reinstate the annual fee if the moneys in the fund,
41 less the department's estimate of costs to the fund
42 for pending or unsettled claims, are less than four
43 hundred thousand dollars. The department shall
44 reinstate the annual fee if moneys in the fund, less
45 the department's estimate of the costs to the fund for
46 pending or unsettled claims, are less than three
47 hundred fifty thousand dollars. A permittee who does
48 not make payment on or after July 1 of each fiscal
49 year shall pay the fee on the next payment date, but
50 not before one month prior to the next payment date.

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1 However, a delayed payment shall not change a
2 permittee's payment date anniversary.

3 4. The department of natural resources shall
4 provide the department of agriculture and land
5 stewardship the most current available information
6 regarding the names and addresses of permittees,
7 including the capacity of the confinement feeding
8 operations subject to the permit. The information
9 shall be delivered every three months according to
10 procedures established by the department.

11 Sec. ____ . NEW SECTION. 204.4 COLLECTION.

12 The department, in cooperation with the attorney
13 general, may bring an action in court in order to
14 collect fees required to be paid as provided in
15 section 204.3.

16 Sec. ____ . NEW SECTION. 204.5 CLAIMS AGAINST THE
17 FUND.

18 1. A county that has acquired real estate
19 containing a manure storage structure following
20 nonpayment of taxes pursuant to section 446.19 may
21 make a claim against the fund to pay the costs of
22 removing and disposing of the manure located in a
23 manure storage structure on the real estate. Each
24 claim shall include a bid by a qualified person, other
25 than a governmental entity, to remove and dispose of
26 the manure for a fixed amount specified in the bid.

27 2. The department shall determine if a claim is
28 eligible to be satisfied under this section, and do
29 one of the following:

30 a. Pay the fixed amount specified in the bid
31 submitted by the county upon completion of the work.

32 b. Obtain a lower fixed amount bid for the work
33 from another qualified person, other than a
34 governmental entity, and pay the fixed amount in this
35 bid upon completion of the work. The department is
36 not required to comply with section 18.6 in
37 implementing this section.

38 3. Upon a determination that the claim is eligible
39 for payment, the department shall provide for payment
40 of one hundred percent of the claim, as provided in
41 this section. If at any time the department
42 determines that there are insufficient moneys to make
43 payment of all claims, the department shall pay claims
44 according to the date that the claims are received by
45 the department. To the extent that a claim cannot be
46 fully satisfied, the department shall order that the
47 unpaid portion of the payment be deferred until the
48 claim can be satisfied. However, the department shall
49 not satisfy claims from moneys dedicated for the
50 administration of the fund.

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1 4. In the event of payment of a claim under this
2 section, the fund is subrogated to the extent of the
3 amount of the payment to all rights, powers,
4 privileges, and remedies of the political subdivision
5 regarding the payment amount. The county shall render
6 all necessary assistance to the department in securing
7 the rights granted in this section. A case or
8 proceeding initiated by a county which involves a
9 claim submitted to the department shall not be
10 compromised or settled without the consent of the
11 department. A county shall not be eligible to submit
12 a claim to the department if the county has
13 compromised or settled a case or proceeding, without
14 the consent of the department.

15 5. If upon disposition of the real estate the
16 county realizes an amount which exceeds the total
17 amount of the delinquent real estate taxes, the county
18 shall forward to the fund any excess amount which is
19 not more than the amount expended by the fund.

20 Sec. ____ . NEW SECTION. 204.6 DEPARTMENTAL RULES.

21 The department of agriculture and land stewardship
22 shall adopt administrative rules pursuant to chapter
23 17A to administer this chapter.

24 Sec. ____ . NEW SECTION. 204.7 NO STATE
25 OBLIGATION.

26 This chapter does not imply any guarantee or
27 obligation on the part of this state, or any of its
28 agencies, employees, or officials, either elective or
29 appointive, with respect to any agreement or
30 undertaking to which this chapter relates."

31 2. Page 13, line 33, by striking the words "an
32 indemnity" and inserting the following: "a
33 construction".

34 3. Page 13, line 34, by inserting after the word
35 "fee" the following: "of fifty dollars".

36 4. Page 14, line 1, by striking the words
37 "indemnity fees" and inserting the following:
38 "construction fees for confinement feeding operations
39 as provided in section 204.3."

40 5. Page 20, line 20, by striking the word
41 "INDEMNITY" and inserting the following:
42 "CONSTRUCTION".

43 6. Page 20, line 21, by striking the word
44 "indemnity" and inserting the following:
45 "construction".

46 7. Page 20, line 27, by striking the word
47 "indemnity" and inserting the following:
48 "construction".

49 8. Page 20, line 35, by striking the word
50 "indemnity" and inserting the following:

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- 1 "construction".
- 2 9. Page 21, line 15, by striking the word
- 3 "indemnity" and inserting the following:
- 4 "construction".
- 5 10. By renumbering as necessary.

By KOENIGS of Mitchell

H-3596 FILED MARCH 29, 1995

Lost 4-3-95
(P.1184)

HOUSE FILE 519

H-3597

- 1 Amend House File 519 as follows:
- 2 1. Page 1, line 5, by striking the word "fifty"
- 3 and inserting the following: "two hundred".

By GARMAN of Story
COON of Warren

H-3597 FILED MARCH 29, 1995

Adopted 4/3/95 (P.1171) - motion to R/c by Estle 4/4/95 -
Motion to R/c prevailed 4/4/95 -
adopted 4-4-95 (P.1244)

HOUSE FILE 519

H-3598

- 1 Amend House File 519 as follows:
- 2 1. Page 5, by inserting after line 23 the
- 3 following:
- 4 "Sec. ____ . NEW SECTION. 204.4A PERSONAL
- 5 LIABILITY.
- 6 For purposes of reimbursing a county that has
- 7 acquired real estate containing an animal feeding
- 8 operation structure as defined in section 455B.161,
- 9 following the nonpayment of taxes pursuant to section
- 10 446.19, as provided in this chapter, all shareholders
- 11 of any corporation, partners of any partnership,
- 12 members of any limited liability company, limited
- 13 partners of any limited partnership, or beneficiaries
- 14 of any trust shall be liable for the entire costs of
- 15 removing and disposing of the manure from a manure
- 16 storage structure, as if they owned the animal feeding
- 17 operation personally, regardless of the amount of
- 18 interest that is held in the corporation, partnership,
- 19 limited liability company, limited partnership, or
- 20 trust."
- 21 2. By renumbering as necessary.

By GARMAN of Story
COON of Warren

H-3598 FILED MARCH 29, 1995

Lost 4-3-95
(P.1173)

HOUSE FILE 519

H-3601

1 Amend House File 519 as follows:

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

4 "Section 1. NEW SECTION. 13.26 CONTRACT FEEDING
5 -- MODEL CONTRACTS -- CARE AND FEEDING OF ANIMALS.

6 The attorney general shall prepare, update, and
7 publish a model contract or several versions of a
8 model contract for use by agricultural producers
9 negotiating an agreement involving the care and
10 feeding of animals for agricultural purposes. A party
11 is not bound by this section to include any term or
12 condition of the model contract in an agreement. The
13 model contract shall include terms and conditions
14 which provide methods to better ensure a fair return
15 of investment, and compensation for labor or services.
16 The model contract shall include terms or conditions
17 which ensure that the party providing the labor has
18 control over factors relating to payment earned by the
19 party in providing for the care and feeding,
20 including, but not limited to, acceptance of animals
21 delivered to the party, animal feed products, and
22 veterinary services. The model contract shall include
23 provisions which provide for the liability of each
24 party under the contract, and procedures and remedies
25 available if the contract is terminated, including,
26 but not limited to, procedures involving mediation
27 pursuant to chapter 654B.

28 Sec. 2. Section 15.318, subsections 3 and 4, Code
29 1995, are amended to read as follows:

30 ~~3. -- The total number of jobs to be created or
31 retained.~~

32 4 3. The size of the business receiving
33 assistance. The department shall award more points to
34 small-sized and medium-sized farms, and to small
35 businesses as defined by the United States small
36 business administration than to other businesses.

37 Sec. 3. Section 15A.1, subsection 2, Code 1995, is
38 amended by adding the following new paragraph:

39 NEW PARAGRAPH. e. The extent to which the public
40 moneys are used to support a project which sustains
41 economic development in the community and encourages
42 the expansion of existing businesses and the
43 establishment of new businesses.

44 Sec. 4. Section 15A.1, Code 1995, is amended by
45 adding the following new subsection:

46 NEW SUBSECTION. 4. Unless otherwise provided, a
47 preference shall not be provided to support a business
48 or farm because of its size.

49 Sec. 5. Section 88.3, Code 1995, is amended by
50 adding the following new subsection:

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1 NEW SUBSECTION. 7A. "Industrial animal feeding
2 operation" means the same as defined in section
3 455B.161.

4 Sec. 6. NEW SECTION. 88.22 INDUSTRIAL ANIMAL
5 FEEDING OPERATIONS.

6 1. The following requirements shall apply to
7 industrial animal feeding operations:

8 a. An employee of the operation must be at least
9 eighteen years of age.

10 b. An employer shall provide an employee a written
11 statement notifying the employee of health risks
12 associated with working in the operation.

13 c. An employer shall post signs on the premises
14 which shall warn employees of health risks associated
15 with working in the operation.

16 d. The employer shall provide, at no cost to the
17 employee, annual physical examinations of the
18 employees, if the employer does not provide insurance
19 coverage for the employee.

20 2. The commissioner, in cooperation with the Iowa
21 department of public health, shall adopt all rules
22 necessary to implement this section.

23 Sec. 7. NEW SECTION. 135.108 INDUSTRIAL ANIMAL
24 FEEDING OPERATION -- NEIGHBORING RESIDENTS.

25 The department shall provide education and
26 distribute educational materials to persons residing
27 within a five-mile radius of an industrial animal
28 feeding operation as defined in section 455B.161. The
29 department shall establish and maintain a central
30 registry for health-related complaints from persons
31 employed in or residing near industrial animal feeding
32 operations. The department shall investigate reports
33 of incidents involving industrial animal feeding
34 operations which threaten the health of employees or
35 residents. The department shall issue a report to the
36 general assembly not later than January 10 of each
37 year regarding its findings and recommendations
38 concerning industrial animal feeding operation health-
39 related issues.

40 Sec. 8. NEW SECTION. 172A.14 CONTRACT FEEDING
41 CONTRACTS -- NOTICE.

42 In order to preserve free and private enterprise,
43 prevent monopoly, and protect consumers, all contracts
44 for the purchase of swine or cattle by a
45 slaughterhouse or processor as defined in section
46 9H.1, where the contract allows delivery more than
47 twenty days after the making of the contract, shall be
48 publicly posted and available for inspection by the
49 public or state personnel at the place of business of
50 the slaughterhouse or processor. All such contracts

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1 existing on the effective date of this Act, which
2 allow delivery more than twenty days after the
3 effective date of the Act, shall also be publicly
4 posted and available for inspection by the public or
5 state personnel at the place of business of the
6 slaughterhouse or processor.

7 Sec. 9. Section 175.13A, subsection 1, Code 1995,
8 is amended to read as follows:

9 1. In addition to the other programs authorized
10 pursuant to this chapter, the authority is authorized
11 to provide any type of economic assistance directly or
12 indirectly to agricultural producers, and may develop
13 and implement programs including, but not limited to,
14 the making of loan guarantees, interest buy-downs,
15 grants, secured or unsecured direct loans, secondary
16 market purchases of loans or mortgages, loans to
17 mortgage lenders, lending institutions, other
18 agricultural lenders as designated by rule of the
19 authority, or entities that provide funds or credits
20 to such lenders or institutions, to assist
21 agricultural producers within the state. The
22 authority shall provide that assistance provided under
23 this chapter is administered in the most efficient
24 manner possible. The authority shall ensure that
25 programs administered under this chapter for beginning
26 farmers shall, to every extent practicable, assist the
27 transfer of land from retiring farmers to beginning
28 farmers. The authority may exercise any of the powers
29 granted to it in this chapter in order to fulfill the
30 goal of providing financial assistance to agricultural
31 producers. The authority may participate in and
32 cooperate with programs of any agency or
33 instrumentality of the federal government or with
34 programs of any other state agency in the
35 administration of the programs to provide economic
36 assistance to agricultural producers.

37 Sec. 10. NEW SECTION. 332.1 DEFINITIONS.

38 As used in this chapter, unless the context
39 otherwise requires:

40 1. "Bond" means a bond issued by a surety company
41 or an irrevocable letter of credit issued by a bank,
42 credit union, or savings and loan association as
43 defined in section 12C.1.

44 2. "Department" means the department of natural
45 resources.

46 3. "Industrial animal feeding operation" means the
47 same as defined in section 455B.161.

48 Sec. 11. NEW SECTION. 332.2 OPERATING PERMITS.

49 1. A county board of supervisors must approve an
50 operating permit for an industrial animal feeding

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1 operation or related structure prior to the
2 construction of the operation or structure. The
3 county may impose a fee for the issuance of the
4 permit. The permit must be approved each year as
5 provided by the county.

6 2. A person shall not receive a permit for the
7 operation of an industrial animal feeding operation,
8 unless the person submits evidence of financial
9 responsibility as provided in section 332.3 and
10 complies with a manure management plan, as provided in
11 section 332.4.

12 3. A county may provide that a person issued a
13 permit for the construction of an industrial animal
14 feeding operation or related structure by the
15 department prior to the effective date of this Act
16 must comply with this section not later than two years
17 following the effective date of this Act.

18 Sec. 12. NEW SECTION. 332.3 EVIDENCE OF
19 FINANCIAL RESPONSIBILITY -- CLEANUP.

20 1. Prior to issuing an operating permit as
21 required pursuant to section 332.2, a county must
22 receive evidence of financial responsibility, in such
23 an amount as required by the county, but not less than
24 three hundred thousand dollars. The amount shall be
25 deposited in an escrow account under the control of
26 the county. However, the person may submit a bond for
27 the amount according to requirements and procedures
28 required by the county.

29 2. The moneys in the escrow account or bond shall
30 be used exclusively to pay for removing and disposing
31 of manure from a manure storage structure connected to
32 the industrial animal feeding operation, if the county
33 acquires real estate containing the manure storage
34 structure following nonpayment of taxes pursuant to
35 section 446.19.

36 Sec. 13. NEW SECTION. 332.4 MANURE MANAGEMENT
37 PLAN.

38 1. Prior to issuing an operating permit as
39 required pursuant to section 332.2, a county must
40 approve a manure management plan for the operation.
41 The plan shall be for a period of five years. The
42 plan shall provide for the application of manure in a
43 manner that is consistent with manure management
44 practices provided in section 455B.202. The plan
45 shall be filed with the department and the county
46 recorder in each county where the industrial animal
47 feeding operation is located. The plan shall include
48 provisions required by the county, including, but not
49 limited to, all of the following:

50 a. Calculations to determine the land area

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1 required for application of manure from the industrial
2 animal feeding operation for the crop schedule
3 specified in the plan.

4 b. The rate of manure application which shall be
5 consistent with the requirements of section 455B.202.

6 c. A crop schedule for land subject to
7 application.

8 d. Manure sludge management, according to rules
9 adopted by the department.

10 2. A person receiving a permit for the operation
11 of an industrial animal feeding operation or related
12 structure shall maintain a current manure management
13 plan and maintain records sufficient to demonstrate
14 compliance with the manure management plan. The
15 person shall submit any amendments or modifications to
16 the plan to the county and the department prior to
17 altering a practice provided in the plan. The county
18 or the department may inspect the industrial animal
19 feeding operation at any time during normal working
20 hours, and may inspect records required to be
21 maintained as part of the manure management plan.

22 Sec. 14. Section 335.3, Code 1995, is amended to
23 read as follows:

24 335.3 POWERS.

25 ~~Subject to section 335.27, the~~ The board of
26 supervisors may by ordinance regulate and restrict the
27 height, number of structures, and size of buildings
28 and other structures, the percentage of lot that may
29 be occupied, the size of yards, courts, and other open
30 spaces, the density of population, and the location
31 and use of buildings, structures, and land for trade,
32 industry, residence, or other purposes, and may
33 regulate, restrict, and prohibit the use for
34 residential purposes of tents, trailers, and portable
35 or potentially portable structures. However, such
36 powers shall be exercised only with reference to land
37 and structures located within the county but lying
38 outside of the corporate limits of any city.

39 Sec. 15. Section 352.6, unnumbered paragraph 1,
40 Code 1995, is amended to read as follows:

41 An owner of farmland may submit a proposal to the
42 county board for the creation or expansion of an
43 agricultural area within the county. An agricultural
44 area, at its creation, shall include at least ~~three~~
45 six hundred forty contiguous acres of farmland;
46 ~~however.~~ However, a smaller area may be created if
47 the farmland is adjacent to farmland subject to an
48 agricultural land preservation ordinance pursuant to
49 section 335.27 or adjacent to land located within an
50 existing agricultural area. The proposal shall

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

17 Sec. 16. Section 352.7, Code 1995, is amended to
 18 read as follows:

19 352.7 DUTIES OF COUNTY BOARD.

20 1. Within thirty days of receipt of a proposal to
 21 create or expand an agricultural area which meets the
 22 statutory requirements, the county board shall provide
 23 notice of the proposal by publishing notice in a
 24 newspaper of general circulation in the county. The
 25 board shall provide notice by ordinary mail to persons
 26 residing within five miles of the boundaries of the
 27 proposed agricultural area. Within forty-five days
 28 after receipt of the proposal, the county board shall
 29 hold a public hearing on the proposal.

30 2. Within sixty days after receipt, the county
 31 board ~~shall~~ may adopt the proposal or any modification
 32 of the proposal ~~it that the board deems appropriate,~~
 33 unless to do so would be inconsistent with the
 34 purposes of this chapter.

35 Sec. 17. Section 352.9, Code 1995, is amended to
 36 read as follows:

37 352.9 WITHDRAWAL.

38 At An owner of farmland within an agricultural area
 39 may voluntarily withdraw from the area at any time
 40 after-three-years-from-the-date-of-creation-of-an
 41 agricultural-area,-an-owner-may. Prior to the
 42 transfer of title to the farmland, the owner must
 43 withdraw from an agricultural area by-filing. An
 44 owner withdrawing from an agricultural area shall file
 45 a notice of withdrawal with the county board a-request
 46 for-withdrawal-containing. The notice shall contain a
 47 legal description of the land to be withdrawn and-a
 48 statement-of-the-reasons-for-the-withdrawal. The
 49 county-board-shall,-within-sixty-days-of-receipt-of
 50 the-request,-approve-or-deny-the-request-for

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~~1 withdrawal--At-any-time-after-six-years-from-the-date
2 of-creation-of-an-agricultural-area,-an-owner-may
3 withdraw-from-an-agricultural-area-by-filing-with-the
4 county-board-a-notice-of-withdrawal-containing-a-legal
5 description-of-the-land-to-be-withdrawn.~~

6 The board shall cause the description of that
7 agricultural area filed with the county auditor and
8 recording officer in the county to be modified to
9 reflect any withdrawal. Withdrawal shall be effective
10 on the date of recording. The agricultural area from
11 which the land is withdrawn shall continue in
12 existence even if smaller than three six hundred forty
13 acres after withdrawal.

14 Sec. 18. Section 403.17, subsection 9, Code 1995,
15 is amended to read as follows:

16 9. "Economic development area" means an area of a
17 municipality designated by the local governing body as
18 appropriate for commercial and industrial enterprises
19 or housing and residential development for low and
20 moderate income families, including single or
21 multifamily housing. If an urban renewal plan for an
22 urban renewal area is based upon a finding that the
23 area is an economic development area and that no part
24 contains slum or blighted conditions, then the
25 division of revenue provided in section 403.19 and
26 stated in the plan shall be limited to twenty years
27 from the calendar year following the calendar year in
28 which the city first certifies to the county auditor
29 the amount of any loans, advances, indebtedness, or
30 bonds which qualify for payment from the division of
31 revenue provided in section 403.19. Such area
32 designated before July 1, 1994, shall not include land
33 which is part of a century farm. An economic
34 development area does not include any area of a
35 municipality in which an industrial animal feeding
36 operation, as defined in section 455B.161, may be
37 established.

38 Sec. 19. Section 414.23, unnumbered paragraph 1,
39 Code 1995, is amended to read as follows:

40 The powers granted by this chapter may be extended
41 by ordinance by any city to the unincorporated area up
42 to two miles beyond the limits of such city, except
43 for those areas within a county where a county zoning
44 ordinance exists. The ordinance shall describe in
45 general terms the area to be included. ~~The exemption
46 from-regulation-granted-by-section-335-2-to-property
47 used-for-agricultural-purposes-shall-apply-to-such
48 unincorporated-area.~~ If the limits of any such city
49 are at any place less than four miles distant from the
50 limits of any other city which has extended or

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1 thereafter extends its zoning jurisdiction under this
2 section, then at such time the powers herein granted
3 shall extend to a line equidistant between the limits
4 of said cities.

5 Sec. 20. Section 441.21, subsection 1, paragraph
6 e, Code 1995, is amended to read as follows:

7 e. The actual value of agricultural property shall
8 be determined on the basis of productivity and net
9 earning capacity of the property determined on the
10 basis of its use for agricultural purposes capitalized
11 at a rate of seven percent and applied uniformly among
12 counties and among classes of property. Any formula
13 or method employed to determine productivity and net
14 earning capacity of property shall be adopted in full
15 by rule. However, property upon which is located an
16 industrial animal feeding operation, as defined in
17 section 455B.161, shall be assessed as industrial
18 property.

19 Sec. 21. Section 455B.134, subsection 3, paragraph
20 f, subparagraph (1), unnumbered paragraph 2, Code
21 1995, is amended to read as follows:

22 Anaerobic lagoons, constructed or expanded on or
23 after June 20, 1979, but prior to the effective date
24 of this Act, or earthen waste slurry storage basins,
25 constructed or expanded on or after July 1, 1990, but
26 prior to the effective date of this Act, which are
27 used in connection with animal feeding operations
28 containing less than six hundred twenty-five thousand
29 pounds live animal weight capacity of animal species
30 other than beef cattle or containing less than one
31 million six hundred thousand pounds live animal weight
32 capacity of beef cattle, shall be located at least one
33 thousand two hundred fifty feet from a residence not
34 owned by the owner of the feeding operation or from a
35 public use area other than a public road. Anaerobic
36 lagoons or earthen waste slurry storage basins, which
37 are used in connection with animal feeding operations
38 containing six hundred twenty-five thousand pounds or
39 more live animal weight capacity of animal species
40 other than beef cattle or containing one million six
41 hundred thousand pounds or more live animal weight
42 capacity of beef cattle, shall be located at least one
43 thousand eight hundred seventy-five feet from a
44 residence not owned by the owner of the feeding
45 operation or from a public use area other than a
46 public road. For the purpose of this paragraph the
47 determination of live animal weight capacity shall be
48 based on the average animal weight capacity during a
49 production cycle and the maximum animal capacity of
50 the animal feeding operation. ~~These-separation~~

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1 ~~distances-apply-to-the-construction-of-new-facilities~~
 2 ~~and-the-expansion-of-existing-facilities.~~

3 Sec. 22. NEW SECTION. 455B.161 SEPARATION

4 DISTANCES -- ANIMAL FEEDING OPERATIONS.

5 1. As used in this section, unless the context
 6 otherwise requires:

7 a. "Anaerobic lagoon" means an impoundment used in
 8 conjunction with an animal feeding operation, if the
 9 primary function of the impoundment is to store and
 10 stabilize organic wastes, the impoundment is designed
 11 to receive wastes on a regular basis, and the
 12 impoundment's design waste loading rates provide that
 13 the predominant biological activity is anaerobic.

14 b. "Animal feeding operation" means a lot, yard,
 15 corral, building, or other area in which animals are
 16 confined and fed and maintained for forty-five days or
 17 more in any twelve-month period, and all structures
 18 used for storage of manure from animals in the animal
 19 feeding operation. Two or more animal feeding
 20 operations under common ownership or management are
 21 deemed to be a single animal feeding operation, if
 22 they are adjacent or utilize a common system for
 23 manure storage.

24 c. "Animal feeding operation structure" means any
 25 structure in which animals are kept or maintained or
 26 in which manure is stored in connection with an animal
 27 feeding operation.

28 d. "Animal unit" means a unit of measurement used
 29 to determine the animal capacity of an animal feeding
 30 operation. One animal unit equals the following
 31 number of animals for each of the following species:

32 (1) Dairy cattle	0.7
33 (2) Slaughter and feeder cattle	1.0
34 (3) Sheep (including lambs)	10.0
35 (4) Horses	0.5
36 (5) Swine (55 pounds or more)	2.5
37 (6) Swine (less than 55 pounds)	0.5
38 (7) Laying hens (dry matter manure)	100.0
39 (8) Laying hens (liquid manure)	30.0

40 e. "Animal unit capacity" means the number of
 41 animal units that may be maintained in an animal
 42 feeding operation during any one time.

43 f. "Earthen manure storage basin" means an earthen
 44 cavity, either covered or uncovered, which, on a
 45 regular basis, receives waste discharges from a
 46 confinement feeding operation if accumulated wastes
 47 from the basin are completely removed at least twice
 48 each year.

49 g. "Industrial animal feeding operation" means an
 50 animal feeding operation with an animal unit capacity

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1 of one thousand or more animal units within a one mile
2 radius.

3 h. "Public use area" means a park, recreation
4 area, or wildlife management area over which the
5 United States, the state, or a county exercises
6 jurisdiction.

7 2. An animal feeding operation structure, which is
8 part of an industrial animal feeding operation, and
9 which is constructed on or after the effective date of
10 this Act or expanded on or after the effective date of
11 this Act, shall not be constructed or expanded closer
12 to one of the following locations or objects than
13 provided in paragraphs "a" and "b":

14 a. For a residence, not less than two and one-half
15 feet for each animal unit of capacity for the
16 industrial animal feeding operation.

17 b. For a public use area, not less than one mile.

18 3. An anaerobic lagoon or earthen waste slurry
19 storage basin constructed on or after the effective
20 date of this Act or expanded on or after the effective
21 date of this Act, which is not part of an industrial
22 animal feeding operation, shall not be constructed or
23 expanded closer to a residence or public use area than
24 one thousand two hundred fifty feet.

25 4. All distances between locations or objects
26 provided in this section shall be measured from their
27 closest points, as provided in rules adopted by the
28 department.

29 5. A separation distance requirement provided in
30 this section shall not apply, if the owner of a
31 residence also owns the animal feeding operation, or
32 if the titleholder of the land benefiting from the
33 distance separation requirements executes a written
34 waiver to the titleholder of the land where the animal
35 feeding operation is located, under such terms and
36 conditions that the parties negotiate. The written
37 waiver becomes effective only upon the recording of
38 the waiver in the office of the recorder of deeds of
39 the county in which the benefited land is located.
40 The filed waiver shall preclude enforcement by the
41 state of this section.

42 Sec. 23. Section 455B.171, Code 1995, is amended
43 by adding the following new subsections:

44 NEW SUBSECTION. 1A. "Animal feeding operation"
45 means a lot, yard, corral, building, or other area in
46 which animals are confined and fed and maintained for
47 forty-five days or more in any twelve-month period,
48 and all structures used for the storage of manure from
49 animals in the animal feeding operation. Two or more
50 animal feeding operations under common ownership or

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1 management are deemed to be a single animal feeding
2 operation, if they are adjacent or utilize a common
3 area or system for manure storage.

4 NEW SUBSECTION. 6A. "Industrial animal feeding
5 operation" means an animal feeding operation with an
6 animal unit capacity of one thousand or more animal
7 units as defined in section 455B.161, within a one-
8 mile radius.

9 Sec. 24. Section 455B.173, subsection 3,
10 unnumbered paragraph 1, Code 1995, is amended to read
11 as follows:

12 Establish, modify or repeal rules relating to the
13 location, construction, operation, and maintenance of
14 disposal systems and public water supply systems and
15 specifying the conditions, including the viability of
16 a system pursuant to section 455B.174, under which the
17 director shall issue, revoke, suspend, modify, or deny
18 permits for the operation, installation, construction,
19 addition to, or modification of any disposal system or
20 public water supply system, ~~or for the discharge of~~
21 ~~any pollutant or for the disposal of water wastes~~
22 ~~resulting from poultry and livestock operations.~~ The
23 rules specifying the conditions under which the
24 director shall issue permits for the construction of
25 an electric power generating facility subject to
26 chapter 476A shall provide for issuing a conditional
27 permit upon the submission of engineering
28 descriptions, flow diagrams and schematics that
29 qualitatively and quantitatively identify effluent
30 streams and alternative disposal systems that will
31 provide compliance with effluent standards or
32 limitations.

33 Sec. 25. Section 455B.173, Code 1995, is amended
34 by adding the following new subsection:

35 NEW SUBSECTION. 12. Adopt, modify, or repeal
36 rules relating to the construction or operation of
37 animal feeding operations. The rules shall include,
38 but are not limited to, minimum manure control
39 requirements, requirements for obtaining permits, and
40 departmental evaluations of animal feeding operations.
41 The department may collect fees for the issuance of
42 permits. The fees shall be deposited into the
43 enforcement fund as established in section 455B.201.
44 The department shall issue a permit for the
45 construction of an animal feeding operation, including
46 an industrial animal feeding operation, if an
47 application is submitted according to procedures
48 required by the department, and the application meets
49 standards established by the department. Prior to
50 granting a permit to a person for the construction of

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1 an animal feeding operation, the department may
2 require the installation and operation of a
3 hydrological monitoring system. The department shall
4 not issue a permit for the construction of an
5 industrial animal feeding operation or a related
6 structure, unless the department approves an
7 environmental impact study completed by a bonded
8 environmental engineer meeting requirements
9 established by department rule. Persons residing
10 within five miles from a proposed industrial animal
11 feeding operation or related structure shall be
12 notified within ten days prior to any tests or the
13 recovery of samples performed at the site of the
14 proposed operation or structure. A structure used to
15 store manure which is part of an industrial animal
16 feeding operation must use the best available designs
17 and materials feasible to prevent groundwater
18 contamination and odors. The department shall not
19 issue a permit to a person under this subsection if
20 the department has begun an enforcement action which
21 is not resolved, relating to an alleged violation of
22 this chapter concerning an animal feeding operation in
23 which the person has an interest. The department
24 shall establish an industrial animal feeding operation
25 enforcement fund as provided in section 455B.201.

26 Sec. 26. NEW SECTION. 455B.201 INDUSTRIAL ANIMAL
27 FEEDING OPERATIONS ENFORCEMENT FUND -- FEES.

28 1. a. An industrial animal feeding operations
29 enforcement fund is created as a separate fund in the
30 state treasury under the control of the department.
31 The fund consists of moneys from construction fees as
32 provided in section 455B.173 and an annual fee as
33 provided in this section and remitted by persons
34 required to obtain a construction permit for an
35 industrial animal feeding operation or related
36 structure; delinquency penalties; sums collected on
37 behalf of the fund by the department through legal
38 action or settlement; interest, property, and
39 securities acquired through the use of moneys in the
40 fund; or moneys contributed to the fund from other
41 sources.

42 b. The moneys deposited in the fund shall be used
43 exclusively to administer and enforce provisions of
44 this chapter relating to industrial animal feeding
45 operations, including but not limited to issuing
46 permits, performing tests, and conducting
47 investigations. The treasurer of state shall act as
48 custodian of the fund and disburse amounts contained
49 in the fund as directed by the department.

50 c. The treasurer of state is authorized to invest

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1 the moneys deposited in the fund. The income from
2 such investment shall be credited to and deposited in
3 the fund. Notwithstanding section 8.33, moneys in the
4 fund are not subject to reversion to the general fund
5 of the state. The fund shall be administered by the
6 department, which shall make expenditures from the
7 fund consistent with the purposes of this section.
8 The moneys in the fund shall be disbursed upon
9 warrants drawn by the director of revenue and finance
10 pursuant to the order of the department. The fiscal
11 year of the fund begins July 1. The finances of the
12 fund shall be calculated on an accrual basis in
13 accordance with generally accepted accounting
14 principles. The auditor of state shall regularly
15 perform audits of the fund.

16 2. a. The department shall deposit into the fund
17 an annual fee collected from persons required to
18 obtain a construction permit for the issuance of
19 permits for the construction of industrial animal
20 feeding operations as provided in section 455B.173.

21 b. A permittee shall pay an annual fee to the
22 department which shall be remitted to the department
23 as provided in rules adopted by the department. The
24 department shall establish four payment dates each
25 year beginning July 1 and which shall be three months
26 apart. A permittee who has been issued a construction
27 permit for an industrial animal feeding operation
28 prior to the effective date of this Act shall pay the
29 annual fee on a payment date specified by the
30 department, but not earlier than the second payment
31 date following the effective date of this Act. A
32 permittee who has received a construction permit on or
33 after the effective date of this Act shall make the
34 full annual payment on the second payment date after
35 the construction permit is issued by the department.
36 A permittee shall pay the annual fee to the department
37 on each anniversary of the payment date. The
38 department shall provide notice in writing to a
39 permittee within one month prior to the permittee's
40 payment date.

41 c. The annual fee shall equal five cents per
42 animal unit of capacity for an industrial animal
43 feeding operation housing poultry and twelve and one-
44 half cents per animal unit of capacity for an
45 industrial animal feeding operation housing other
46 species of animals, as defined in section 455B.161.
47 The fee shall not be paid if the industrial animal
48 feeding operation does not house any animals or store
49 manure for three consecutive months prior to the
50 permittee's payment date. If the industrial animal

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1 feeding operation again houses animals or stores
2 manure, the permittee shall pay the department by the
3 next payment date and subsequently on each anniversary
4 of that payment date. The permittee shall notify the
5 department if a fee is not owing within one month
6 prior to the permittee's payment date.

7 d. A permittee is delinquent if the permittee
8 fails to submit the full fee when due or, if upon
9 examination, an underpayment of the fee is found by
10 the department. The permittee is subject to a penalty
11 of ten dollars or an amount equal to the amount of the
12 deficiency for each day the permittee is delinquent,
13 whichever is less.

14 e. If, on March 1, the unexpended or unobligated
15 moneys of the fund exceed five hundred thousand
16 dollars, the annual fee shall be waived. The
17 department may reinstate the annual fee if the
18 unobligated or unexpended moneys in the fund are less
19 than five hundred thousand dollars. The department
20 shall reinstate the annual fee if unexpended or
21 unobligated moneys in the fund are less than four
22 hundred fifty thousand dollars. A permittee who does
23 not make payment on or after July 1 of each fiscal
24 year shall pay the fee on the next payment date, but
25 not before one month prior to the next payment date.
26 However, a delayed payment shall not change a
27 permittee's payment date anniversary.

28 Sec. 27. NEW SECTION. 455B.202 MANURE MANAGEMENT
29 PRACTICES.

30 The department shall adopt rules for manure
31 management practices by persons required to obtain a
32 permit for the construction of an industrial animal
33 feeding operation or related structure which shall
34 include all of the following:

35 1. Requirements for the submission and approval of
36 a manure management plan as provided in section 332.4.

37 2. Manure application practices, including manure
38 application rates on land based on the production of
39 designated crops and according to crop schedules. The
40 application rates shall be based on phosphorous use
41 levels of designated crops, according to soil tests
42 which shall be performed each year and a chemical
43 analysis of the manure which shall be performed each
44 five years. In no case shall manure be applied to
45 land which exceeds the maximum crop uptake of nitrogen
46 or phosphorous.

47 3. Manure shall be applied to land according to a
48 schedule included in rules adopted by the department.
49 Manure shall not be applied during any period when
50 soil temperatures are fifty degrees Fahrenheit and

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1 cooling. Manure shall not be applied to frozen land,
2 unless the application is approved after a public
3 hearing by the county board of supervisors in the
4 county where the land is located. However, manure
5 shall not be applied on land having a slope that
6 exceeds four percent.

7 4. Manure applied to land must be injected or
8 incorporated within twenty-four hours, unless
9 inclement weather prohibits incorporation.

10 5. Manure shall not be applied by the use of
11 irrigation equipment or a device which sprays liquid
12 manure more than twenty-five feet.

13 Sec. 28. NEW SECTION. 455B.203 DISTANCE
14 REQUIREMENTS.

15 An industrial animal feeding operation structure
16 shall be located at least one-half mile from an
17 agricultural drainage well, sinkhole, or a lake,
18 river, or stream. All distances between locations or
19 objects shall be measured from their closest points,
20 as provided by rules adopted by the department. The
21 department may require that the distances be not
22 greater than one mile if a structure is located on an
23 elevation higher than the agricultural drainage well,
24 sinkhole, lake, river, or stream.

25 Sec. 29. Section 335.2, Code 1995, is repealed."

By FALLON of Polk

DREES of Carroll

BURNETT of Story

KOENIGS of Mitchell

H-3601 FILED MARCH 29, 1995

WITHDRAWN

4/3/95

(P. 1167)

HOUSE FILE 519

H-3599

1 Amend House File 519 as follows:

2 1. Page 5, by inserting after line 31 the
3 following:

4 "Sec. ____ . Section 335.2, Code 1995, is amended to
5 read as follows:

6 335.2 FARMS EXEMPT.

7 Except to the extent required to implement section
8 335.27, no ordinance adopted under this chapter
9 applies to land, farm houses, farm barns, farm
10 outbuildings or other buildings or structures which
11 are primarily adapted, by reason of nature and area,
12 for use for agricultural purposes, while so used.
13 However, the ordinances may apply to any structure,
14 building, dam, obstruction, deposit or excavation in
15 or on the flood plains of any river or stream. This
16 section does not apply to an animal feeding operation
17 which has an animal weight capacity of six hundred
18 twenty-five thousand or more pounds for animals other
19 than beef cattle, or one million six hundred thousand
20 or more pounds for beef cattle, as provided in section
21 455B.161, unless the owner of the agricultural land on
22 which the animal feeding operation is located is
23 qualified to file for a homestead tax credit as
24 provided pursuant to section 425.2 on the parcel of
25 agricultural land on which the operation is
26 maintained."

27 2. By renumbering as necessary.

By GARMAN of Story
COON of Warren

WITHDRAWN 4-4-95 (P. 1217)

H-3599 FILED MARCH 29, 1995

~~MMARCH 29~~

HOUSE FILE 519

H-3600

1 Amend House File 519 as follows:

2 1. Page 11, by inserting after line 24 the
3 following:

4 " ____ . An animal feeding operation which provides
5 for the storage of manure exclusively in a dry form."

6 2. By renumbering as necessary.

By MERTZ of Kossuth

H-3600 FILED MARCH 29, 1995

Adapted 4-4-95
(P. 1226)

HOUSE FILE 519

H-3604

- 1 Amend House File 519 as follows:
2 1. Page 5, by inserting after line 31 the
3 following:
4 "Sec. ____ . Section 335.2, Code 1995, is amended to
5 read as follows:
6 335.2 FARMS EXEMPT.
7 Except to the extent required to implement section
8 335.27, no ordinance adopted under this chapter
9 applies to land, farm houses, farm barns, farm
10 outbuildings or other buildings or structures which
11 are primarily adapted, by reason of nature and area,
12 for use for agricultural purposes, while so used.
13 However, the this section shall not apply to the
14 unincorporated area up to two miles beyond the limits
15 of a city. In addition, ordinances may apply to any
16 structure, building, dam, obstruction, deposit or
17 excavation in or on the flood plains of any river or
18 stream.
19 Sec. ____ . Section 414.23, unnumbered paragraph 1,
20 Code 1995, is amended to read as follows:
21 The powers granted by this chapter may be extended
22 by ordinance by any city to the unincorporated area up
23 to two miles beyond the limits of such city, except
24 for those areas within a county where a county zoning
25 ordinance exists. The ordinance shall describe in
26 general terms the area to be included. The exemption
27 from regulation granted by section 335.2 to property
28 used for agricultural purposes shall not apply to such
29 unincorporated area. If the limits of any such city
30 are at any place less than four miles distant from the
31 limits of any other city which has extended or
32 thereafter extends its zoning jurisdiction under this
33 section, then at such time the powers herein granted
34 shall extend to a line equidistant between the limits
35 of said cities."
36 2. By renumbering as necessary.

By MERTZ of Kossuth
MUNDIE of Webster

H-3604 FILED MARCH 29, 1995

Not German
H-H-95 (P. 12/18)

W. M. M. M. M.

HOUSE FILE 519

H-3607

1 Amend House File 519 as follows:

2 1. Page 5, by inserting after line 31 the
3 following:

4 "Sec. ____ Section 414.23, unnumbered paragraph 1,
5 Code 1995, is amended to read as follows:

6 The powers granted by this chapter may be extended
7 by ordinance by any city to the unincorporated area up
8 to two miles beyond the limits of such city, except
9 for those areas within a county where a county zoning
10 ordinance exists. The ordinance shall describe in
11 general terms the area to be included. The exemption
12 from regulation granted by section 335.2 to property
13 used for agricultural purposes shall apply to such
14 unincorporated area, unless the person holding an
15 interest in the property establishes an agricultural
16 feeding operation, as defined in section 455B.161 on
17 the property, and the person is classified as a type
18 of corporation, limited liability company, limited
19 partnership, or trust, regulated under chapter 9H. If
20 the property is so held, the exemption shall apply,
21 only if the natural person who is a shareholder of the
22 corporation, member of the limited liability company,
23 limited partner of the limited partnership, or
24 beneficiary of the trust, holds a minimum interest in
25 the corporation, limited liability company, limited
26 partnership, or trust, and resides in closer proximity
27 to the operation than any other person. The minimum
28 interest may be either an equity position in the
29 corporation, limited liability company, limited
30 partnership, or trust which is at least equal to any
31 other stockholder of the corporation, member of the
32 limited liability company, limited partner of the
33 limited partnership, or beneficiary of the trust; or
34 an equity position which is at least twenty-five
35 percent of the total equity position held by all
36 shareholders of the corporation, members of the
37 limited liability company, limited partners of the
38 limited partnership, or beneficiaries of the trust.
39 If the limits of any such city are at any place less
40 than four miles distant from the limits of any other
41 city which has extended or thereafter extends its
42 zoning jurisdiction under this section, then at such
43 time the powers herein granted by this chapter shall
44 extend to a line equidistant between the limits of
45 said the cities."

46 2. By renumbering as necessary.

By BERNAU of Story

H-3607 FILED MARCH 29, 1995

~~WITNESSED~~

4-4-95

Berg

HOUSE FILE 519

H-3609

1 Amend House File 519 as follows:
2 1. Page 14, line 7, by inserting after the word
3 "permit." the following: "The department shall
4 deliver a copy or require the applicant to deliver a
5 copy of the application for a construction permit to
6 the county board of supervisors in the county where
7 the animal feeding operation or animal feeding
8 operation structure subject to the permit is to be
9 located. The department shall not approve the
10 application or issue a construction permit until
11 thirty days following delivery of the application to
12 the county board of supervisors. The department shall
13 consider comments from the county board of
14 supervisors, if the comments are delivered to the
15 department within the thirty days prior to approving
16 the application or issuing the permit."

By HOUSER of Pottawattamie

H-3609 FILED MARCH 29, 1995

adopted 4-4-95
(P. 1228)

HOUSE FILE 519

H-3634

1 Amend House File 519 as follows:
2 1. Page 14, line 7, by inserting after the word
3 "permit." the following: "Notwithstanding section
4 335.2, a person who obtains a construction permit
5 under this subsection, after the effective date of
6 this Act, shall be subject to county zoning as
7 provided in chapter 335, if the animal feeding
8 operation has an animal weight capacity of six hundred
9 twenty-five thousand or more pounds for animals other
10 than beef cattle, or one million six hundred thousand
11 or more pounds for beef cattle. However, section
12 335.2 shall apply, if the owner of the agricultural
13 land on which the animal feeding operation is located
14 is qualified to file for a homestead tax credit as
15 provided pursuant to section 425.2 on the parcel of
16 agricultural land on which the operation is
17 maintained."

By GARMAN of Story

H-3634 FILED MARCH 29, 1995

Lost 4-4-95
(P. 1229)

HOUSE FILE 519

H-3635

1 Amend House File 519 as follows:

2 1. Page 5, by inserting after line 31 the
3 following:

4 "Sec. ____ . Section 335.2, Code 1995, is amended to
5 read as follows:

6 335.2 FARMS EXEMPT.

7 1. Except to the extent required to implement
8 section 335.27, no ordinance adopted under this
9 chapter applies to land, farm houses, farm barns, farm
10 outbuildings or other buildings or structures which
11 are primarily adapted, by reason of nature and area,
12 for use for agricultural purposes, while so used.
13 However, the ordinances may apply to any structure,
14 building, dam, obstruction, deposit or excavation in
15 or on the flood plains of any river or stream.

16 2. This section does not apply to an animal
17 feeding operation which has an animal weight capacity
18 of six hundred twenty-five thousand or more pounds for
19 animals other than beef cattle, or one million six
20 hundred thousand or more pounds for beef cattle, as
21 provided in section 455B.161. This subsection does
22 not apply to allow zoning of agricultural uses under
23 this chapter, if one of the following applies:

24 a. The owner of the agricultural land on which the
25 animal feeding operation is located is qualified to
26 file for a homestead tax credit as provided pursuant
27 to section 425.2 on the parcel of agricultural land on
28 which the operation is maintained.

29 b. The animal feeding operation was established
30 prior to the effective date of this Act, and is not
31 expanded after the effective date of this Act."

32 2. By renumbering as necessary.

By GARMAN of Story
COON of Warren

H-3635 FILED MARCH 29, 1995

Not Gorman
4-4-95 (P.1218)

HOUSE FILE 519

H-3636

1 Amend House File 519 as follows:

2 1. Page 9, line 17, by inserting after the word
3 "structure" the following: ", other than an animal
4 feeding operation for the care and feeding of swine,".

5 2. Page 9, line 27, by striking the words "for
6 animals other" and inserting the following: "for
7 nonswine animals other".

8 3. Page 9, line 27, by striking the words "pounds
9 for animals" and inserting the following: "pounds for
10 nonswine animals".

11 4. Page 10, by inserting after line 8 the
12 following:

13 "____. The following table represents the minimum
14 separation distance in feet required between animal
15 feeding operations for the care and feeding of swine
16 and a residence not owned by the owner of the animal
17 feeding operation, or a commercial enterprise, bona
18 fide religious institution or an educational
19 institution:

	Minimum separation distance in feet for operations having an animal weight capacity for swine of 625,000 or more pounds but less than	Minimum separation distance in feet for operations having an animal weight capacity for swine of 625,000 or more pounds but less than
20		
21		
22		
23	Minimum	Minimum
24	separation	separation
25	distance	distance
26	in feet	in feet
27	for operations	for operations
28	having an	having an
29	animal	animal
30	weight capacity	weight capacity
31	for swine	for swine
32	of 625,000	of 625,000
33	or more	or more
34	pounds	pounds
35	but	but
36	less	less
37	than	than
38	1,250,000	1,250,000
39	pounds	pounds
40	1,250	1,875
41	1,250	1,875
42	1,000	1,500
43	750	1,000
44	750	1,000
45	750	1,000
46	750	1,000
47	750	1,000
48	750	1,000
49	750	1,000
50		

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Page 2

1 storage structure 750 1,000
2 An animal feeding operation for the care and
3 feeding of swine having an animal weight capacity of
4 1,250,000 or more pounds shall provide for the
5 treatment and stabilization of manure exclusively by
6 the use of a treatment system employing aeration. The
7 system shall be installed, operated, and maintained in
8 accordance with requirements provided in rules which
9 shall be adopted by the department. The minimum
10 separation distance applicable under this subsection
11 to an animal feeding operation structure used in
12 connection with the aeration system shall be two
13 thousand five hundred feet. The minimum separation
14 distance applicable under this subsection to a
15 confinement building used in connection with the
16 aeration system shall be one thousand feet."
17 5. By renumbering as necessary.

By MERTZ of Kossuth
MUNDIE of Webster

H-3636 FILED MARCH 29, 1995

*Lost 4-4-95
(P. 1222)*

HOUSE FILE 519

H-3637

- 1 Amend House File 519 as follows:
- 2 1. Page 4, line 22, by inserting before the word
3 "fixed" the following: "amount of the claim required
4 in this section, based on the".
- 5 2. Page 4, line 26, by inserting before the word
6 "fixed" the following: "amount of the claim required
7 in this section, based on the".
- 8 3. Page 7, line 30, by inserting after the word
9 "building" the following: ", constructed prior to the
10 effective date of this Act,".
- 11 4. Page 9, line 13, by striking the words "Act
12 or" and inserting the following: "Act;".
- 13 5. Page 9, line 14, by inserting after the word
14 "Act" the following: "; or, except as provided in
15 section 455B.163, to the expansion of structures
16 constructed prior to the effective date of this Act".
- 17 6. Page 10, by striking lines 31 through 35 and
18 inserting the following:
19 "An animal feeding operation which does not comply
20 with the distance requirements of section 455B.162, on
21 the effective date of this Act, may continue to
22 operate regardless of those separation distances.
23 The".
- 24 7. Page 11, by striking lines 3 and 4 and
25 inserting the following: "distances, if either of the
26 following applies:
27 1. The animal feeding operation structure as
28 constructed or expanded complies with the distance
29 requirements of section 455B.162.
30 2. All of the following apply to the expansion of
31 the animal feeding operation:
32 a. No portion of the animal feeding operation".
- 33 8. Page 11, line 8, by striking the figure "2"
34 and inserting the following: "b."
35 9. Page 11, line 11, by striking the letter "a."
36 and inserting the following: "(1)".
37 10. Page 11, line 12, by striking the letter "b."
38 and inserting the following: "(2)".
39 11. Page 11, line 13, by striking the figure
40 "(1)" and inserting the following: "(a)".
41 12. Page 11, line 15, by striking the figure
42 "(2)" and inserting the following: "(b)".
43 13. Page 15, line 13, by striking the word "this"
44 and inserting the following: "the provisions of state
45 law, including this".
46 14. Page 15, line 14, by striking the figure
47 "159.27" and inserting the following: "159.27,".
48 15. Page 20, line 3, by inserting after the word
49 "dairy" the following: "products".

By EDDIE of Buena Vista

H-3637 FILED MARCH 29, 1995

*adopted 4-3-95 - Motion to R/c by Keenejo 4/3/95
Motion to R/c failed 4-4-95*

(P. 1172)

HOUSE FILE 519

H-3638

- 1 Amend House File 519 as follows:
- 2 1. By striking page 1, line 12 through page 5,
3 line 31.
- 4 2. By striking page 13, line 33, through page 14,
5 line 2, and inserting the following: "feeding
6 operations. The department shall issue a".
- 7 3. Page 14, line 7, by inserting after the word
8 "permit." the following: "The person shall not obtain
9 a permit, unless the person provides evidence of
10 financial assurance with the department, as approved
11 by the department, and which may be moneys deposited
12 in an escrow account, a letter of credit, a bond, or
13 an insurance policy, which shall be used as provided
14 in section 455B.205."
- 15 4. Page 18, by inserting after line 16 the
16 following:
- 17 "Sec. . NEW SECTION. 455B.205 FINANCIAL
18 ASSURANCE REQUIRED.
- 19 A person who receives a permit under section
20 455B.173 must establish and at all times maintain
21 financial assurance in a form required by the
22 department which may include the deposit of moneys in
23 an escrow account, a letter of credit, a bond, or an
24 insurance policy, as provided upon such terms and
25 conditions as the department requires. The amount of
26 the financial assurance shall equal one cent for each
27 gallon of capacity of all structures connected to the
28 operation which are used to store manure as part of an
29 animal feeding operation required to be constructed
30 pursuant to a permit issued by the department pursuant
31 to section 455B.173. The department shall require
32 that the financial assurance shall be used for
33 purposes of paying costs of removing and disposing of
34 the manure from a manure storage structure. The
35 department shall oversee the removal and disposal of
36 the manure, and may use the financial assurance to pay
37 for the work by a qualified person based upon bids let
38 by the department. The department shall use the
39 financial assurance if the permittee liquidates assets
40 including in bankruptcy, to the extent allowed by
41 federal law; the operation is abandoned; or there is
42 evidence that the operation is threatening the quality
43 of groundwater or surface water, and there is
44 compelling evidence that the permittee is incapable or
45 unwilling to remedy the cause of the pollution in a
46 timely manner."
- 47 5. By striking page 20, line 20 through page 21,
48 line 16.
- 49 6. By renumbering as necessary.

By FALLON of Polk
COON of Warren

H-3638 FILED MARCH 29, 1995

late 4-4-95
(P. 1235)

HOUSE FILE 519

H-3655

1 Amend the amendment, H-3607, to House File 519 as
2 follows:

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

5 "Sec. ____ . Section 335.2, Code 1995, is amended to
6 read as follows:

7 335.2 FARMS EXEMPT.

8 1. Except to the extent required to implement
9 section 335.27, no ordinance adopted under this
10 chapter applies to land, farm houses, farm barns, farm
11 outbuildings or other buildings or structures which
12 are primarily adapted, by reason of nature and area,
13 for use for agricultural purposes, while so used.
14 However, the ordinances may apply to any structure,
15 building, dam, obstruction, deposit or excavation in
16 or on the flood plains of any river or stream.

17 2. This section shall not apply to the
18 unincorporated area up to two miles beyond the limits
19 of a city, if the person holding an interest in the
20 property within the area establishes an agricultural
21 feeding operation, as defined in section 455B.161 on
22 the property, and the person is classified as a type
23 of corporation, limited liability company, limited
24 partnership, or trust, regulated under chapter 9H.
25 However, if the property is so held, the exemption in
26 subsection 1 shall continue to apply if the natural
27 person who is a shareholder of the corporation, member
28 of the limited liability company, limited partner of
29 the limited partnership, or beneficiary of the trust,
30 holds a minimum interest in the corporation, limited
31 liability company, limited partnership, or trust, and
32 resides in closer proximity to the operation than any
33 other person. The minimum interest may be either an
34 equity position in the corporation, limited liability
35 company, limited partnership, or trust which is at
36 least equal to any other stockholder of the
37 corporation, member of the limited liability company,
38 limited partner of the limited partnership, or
39 beneficiary of the trust; or an equity position which
40 is at least twenty-five percent of the total equity
41 position held by all shareholders of the corporation,
42 members of the limited liability company, limited
43 partners of the limited partnership, or beneficiaries
44 of the trust."

45 2. By renumbering as necessary.

By BERNAU of Story

H-3655 FILED MARCH 30, 1995

but order 4-4-95 (P.1236)

HOUSE FILE 519

H-3648

1 Amend the amendment, H-3582, to House File 519, as
2 follows:

3 1. Page 1, by striking lines 17 through 20 and
4 inserting the following: "required by the
5 operation."

By MUNDIE of Webster

H-3648 FILED MARCH 30, 1995

*4-3-95
Adopted
(P.1187)*

HOUSE FILE 519

H-3656

1 Amend the amendment, H-3638, to House File 519 as
2 follows:
3 1. Page 1, by striking lines 19 and 20 and
4 inserting the following:
5 "An animal feeding operation constructed pursuant
6 to a permit issued pursuant to section 455B.173 shall
7 not operate unless at all times there is maintained
8 for the operation".
9 2. Page 1, line 26, by striking the word "one"
10 and inserting the following: "one-half".
11 3. Page 1, line 31, by inserting after the figure
12 "455B.173." the following: "If a person establishes
13 an escrow account, the person may contribute to the
14 account according to a schedule. However, the
15 contributions into the account must be made in equal
16 installments at least each six months for a period not
17 to exceed five years. Moneys earned from the account
18 shall be paid to the owner of the account."
19 4. Page 1, line 37, by inserting after the word
20 "let" the following: "or approved".
21 5. Page 1, line 38, by striking the words "use
22 the" and inserting the following: "use or approve the
23 use of".
24 6. Page 1, line 46, by inserting after the word
25 "manner." the following: "The department shall
26 provide for the withdrawal of moneys in the account by
27 the owner of the operation as required to close the
28 facility. Any remaining moneys shall be paid to the
29 owner of the account."

By FALLON of Polk
COON of Warren

H-3656 FILED MARCH 30, 1995

*Adopted 4-3-95
(P. 1186)*

HOUSE FILE 519

H-3657

1 Amend the amendment, H-3584, to House File 519 as
2 follows:
3 1. Page 1, line 4, by striking the words
4 "However, the".
5 2. Page 1, by striking lines 5 and 6 and
6 inserting the following: "If the animal feeding
7 operation wants to expand on or after the effective
8 date of this Act, it needs to comply with the
9 separation distance requirements of section
10 455B.162.""

By KOENIGS of Mitchell

H-3657 FILED MARCH 30, 1995

*Out of Order
4-13-95 (P. 1172)*

HOUSE FILE 519

H-3675

- 1 Amend the amendment, H-3590, to House File 519 as
- 2 follows:
- 3 1. Page 1, by striking lines 5 through 10 and
- 4 inserting the following: "FEEDING OPERATIONS. The
- 5 department of natural resources shall, to the extent
- 6 moneys are appropriated by the Seventy-fifth General
- 7 Assembly,".

By SCHRADER of Marion

H-3675 FILED APRIL 3, 1995

*adopted 4-4-95
(P1233)*

HOUSE FILE 519

H-3676

- 1 Amend the amendment, H-3609, to House File 519 as
- 2 follows:
- 3 1. Page 1, line 12, by striking the word "shall"
- 4 and inserting the following: "may".

By SCHRADER of Marion

H-3676 FILED APRIL 3, 1995

adopted 4-4-95 (P1228)

HOUSE FILE 519

H-3668

- 1 Amend the amendment, H-3571, to House File 519 as
- 2 follows:
- 3 1. Page 1, by striking lines 7 through 9 and
- 4 inserting the following: "applicant files a statement
- 5 approved by a professional engineer registered
- 6 pursuant to chapter 542B, that the animal feeding".

By SCHRADER of Marion

H-3668 FILED MARCH 31, 1995

*adopted 4-4-95
(P1227)*

HOUSE FILE 519

H-3711

- 1 Amend the amendment, H-3609, to House File 519 as
- 2 follows:
- 3 1. Page 1, by striking lines 15 and 16 and
- 4 inserting the following: "department within fourteen
- 5 days after receipt of the application by the county
- 6 board of supervisors."

By SIEGRIST of Pottawattamie

H-3711 FILED APRIL 4, 1995

ADOPTED

(P. 1228)

HOUSE FILE 519

H-3714

- 1 Amend the amendment, H-3637, to House File 519 as
- 2 follows:
- 3 1. Page 1, by striking lines 24 through 42 and
- 4 inserting the following:
- 5 "____". Page 11, by striking lines 2 through 16
- 6 and inserting the following: "effective date of this
- 7 Act, if an animal feeding operation structure as
- 8 constructed or expanded complies with the distance
- 9 requirements of section 455B.162."

By SCHRADER of Marion

H-3714 FILED APRIL 4, 1995

Out of order 4-4-95

HOUSE FILE 519

H-3706

1 Amend House File 519 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. Section 13.13, subsection 2, Code
5 1995, is amended to read as follows:

6 2. The farm assistance program coordinator shall
7 contract with a nonprofit organization chartered in
8 this state to provide mediation services as provided
9 in chapters 654A and 654B, and to conduct neighbor
10 meetings pursuant to section 455B.205. The contract
11 shall be awarded to the organization by July 1, 1990.
12 The contract may be terminated by the coordinator upon
13 written notice and for good cause. The organization
14 awarded the contract is designated as the farm
15 mediation service for the duration of the contract.
16 The organization may, upon approval by the
17 coordinator, provide mediation services other than as
18 provided by law. The farm mediation service is not a
19 state agency for the purposes of chapters 19A, 20, and
20 669.

21 Sec. ____ . Section 13.15, Code 1995, is amended to
22 read as follows:

23 13.15 RULES AND FORMS -- FEES.

24 The farm mediation service shall recommend rules to
25 the farm assistance program coordinator. The
26 coordinator shall adopt rules pursuant to chapter 17A
27 to set the compensation of mediators and to implement
28 this subchapter, and chapters 654A and 654B, and
29 section 455B.205.

30 The rules shall provide for an hourly mediation fee
31 not to exceed fifty dollars for the borrower and one
32 hundred dollars for the creditor. The hourly
33 mediation fee may be waived for any party
34 demonstrating financial hardship upon application to
35 the farm mediation service.

36 The compensation of a mediator shall be no more
37 than twenty-five dollars per hour, and all parties
38 shall contribute an equal amount of the cost.
39 However, if a meeting is held under section 455B.205,
40 the animal feeding operation shall pay the mediator
41 the costs of conducting the meeting.

42 The coordinator shall adopt voluntary mediation
43 application and mediation request forms. The
44 coordinator shall adopt necessary forms to carry out
45 section 455B.205.

46 Sec. ____ . NEW SECTION. 13.17 GOOD NEIGHBOR
47 MEETINGS.

48 The farm assistance program coordinator, provided
49 in this subchapter, shall contract with the farm
50 mediation service to conduct meetings in order to

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Page 2

1 provide for a good neighbor policy relating to animal
2 feeding operations as provided in section 455B.205.
3 The meetings shall not be considered mediation under
4 this subchapter or chapters 654A and 654B."

5 2. Page 14, line 7, by inserting after the word
6 "permit." the following: "The application for a
7 construction permit shall include a section for a good
8 neighbor policy as required pursuant to section
9 455B.205, which the applicant is not required to
10 complete unless the applicant elects to be eligible
11 for nuisance suit protection under section 657.11.
12 The department shall file a permittee's amendments to
13 the section with the application."

14 3. Page 18, by inserting after line 16 the
15 following:

16 "Sec. ____ . NEW SECTION. 455B.205 GOOD NEIGHBOR
17 POLICY.

18 1. The purpose of this section is to codify the
19 spirit of informal conduct to the expansion of animal
20 feeding operations in this state, which has
21 traditionally existed between farmers and neighbors,
22 based on a common set of farmer-neighbor expectations
23 relating to conversation, cooperation, tolerance, and
24 community harmony, when a farmer implements good faith
25 business practices.

26 2. A person who, on and after the effective date
27 of this Act, shall not obtain a construction permit
28 pursuant to section 455B.173, unless the person
29 develops a good neighbor policy prior to receiving the
30 permit in order to provide that the animal feeding
31 operation subject to the permit is eligible for
32 nuisance suit protection under section 657.11. In
33 order to satisfy this requirement, the applicant shall
34 satisfy the requirements of this section. The good
35 neighbor policy shall continue in effect after a
36 transfer in ownership of the operation. The portion
37 of the application providing for a good neighbor
38 policy may be amended by the operation's permittee
39 after complying with the requirements of this section
40 and filing the amended portion with the department.

41 3. The applicant or permittee shall provide a
42 written notice to all residents located within one
43 mile of any animal feeding operation structure subject
44 to the permit. The notice shall provide a time and
45 place in the county in which the operation is to be
46 located where all of the following shall be available
47 for public inspection:

48 a. The site plans for the construction of each
49 structure subject to a construction permit.

50 b. A completed application required pursuant to

H-3706

-2-

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Page 3

1 section 455B.173, including a proposed good neighbor
2 policy, or proposed amendments to the good neighbor
3 policy, as provided in this section.

4 c. A manure management plan, if required pursuant
5 to section 455B.203.

6 4. At least one neighbors meeting shall be held in
7 order to provide persons residing within one mile of
8 the site subject to the construction permit, with the
9 opportunity to express comments regarding the
10 operation, and the good neighbor policy. A

11 representative of the animal feeding operation shall
12 attend the meeting. A mediator designated by the farm
13 mediation service shall conduct the meeting and
14 certify to the department of natural resources that
15 the meeting was conducted as required pursuant to this
16 section.

17 5. The good neighbor portion of an application for
18 a permit for the construction of an animal feeding
19 operation or an amendment to the portion shall include
20 all of the following:

21 a. Procedures to notify neighbors of events,
22 including the cleaning of structures or the disposal
23 of manure, that may cause special discomfort to
24 neighbors.

25 b. A method to ensure that communication between
26 the animal feeding operation and neighbors is
27 maintained, including methods for neighbors to notify
28 an animal feeding operation when special occasions
29 occur such as weddings, holidays, parties, or
30 funerals.

31 c. The establishment of a nonjudicial dispute
32 resolution forum for neighbors and an animal feeding
33 operation to informally reach solutions to matters of
34 concern affecting the parties.

35 d. Methods to reduce impacts on the fair market
36 value of neighboring property due to the construction
37 or operation of an animal feeding operation structure,
38 which may include the purchase or lease of property
39 around an animal feeding operation structure, or the
40 payment of compensation to neighboring property
41 owners.

42 e. The implementation of practices and the
43 installation of systems to ensure that animal diseases
44 originating from the operation do not contaminate
45 animals located on neighboring property.

46 f. Practices and systems designed to reduce the
47 discomfort to neighbors arising from an animal feeding
48 operation. The application may include practical and
49 inexpensive methods utilized by the operation to
50 reduce odor, including planting trees around animal

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Page 4

1 feeding operation structures and providing that open
2 manure storage structures be covered with materials
3 which inhibit odor, such as straw, foam pellets, or
4 mats.

5 6. The Iowa cooperative extension service in
6 agriculture and home economics at Iowa state
7 university shall assist in carrying out the purpose of
8 this section by developing a model good neighbor
9 policy which may be used by animal feeding operations
10 in complying with this section. The service shall
11 provide different versions of the policy based on
12 various possible situations. In developing different
13 versions, the service shall consider the type and size
14 of animal feeding operations, the type and size of
15 animal feeding operation structures utilized by
16 operations, the different species of animals
17 maintained at operations, varying distances to
18 neighboring residents, different types of locations of
19 the animal feeding operations, and the number of
20 existing or planned animal feeding operations located
21 in close proximity to the operation to be constructed.
22 The service shall develop its model good neighbor
23 policy based upon the sensibilities of a reasonable
24 rural resident in the county who is familiar with and
25 appreciates the importance of animal agriculture."

26 4. Page 19, line 3, by inserting after the word
27 "voluntarily." the following: "An animal feeding
28 operation shall not be eligible for nuisance suit
29 protection under this section, unless the operation is
30 subject to an existing good neighbor policy as
31 provided in section 455B.205."

32 5. Page 19, by inserting after line 14 the
33 following:

34 "____. A violation of an animal feeding operation's
35 good neighbor policy as provided in section 455B.205,
36 to the extent that the violation is the cause of the
37 nuisance."

38 6. By renumbering and relettering as necessary.

By SCHRADER of Marion

H-3706 FILED APRIL 3, 1995

Lost 4/4/95

(P. 1241)

HOUSE FILE 519

H-3723

1 Amend House File 519 as follows:

2 1. Page 19, line 13, by inserting after the word

3 "of" the following: ", or a failure to comply with,".
By SIEGRIST of Pottawattamie

H-3723 FILED APRIL 4, 1995

ADOPTED (P. 1231)

5-4/11/95
 2. 4/12/95 Without Recommendation
 5-4-13-95 unfinished Business Calendar
 5-4/13/95 Back to Agriculture
 HOUSE FILE 519 5-4/18/95 Amend/Do Pass w/5-3484
 BY COMMITTEE ON AGRICULTURE
 5-4/20/95 Amend/Do Pass w/5-3512
 (SUCCESSOR TO HSB 50.1) 5/4/20/90 7/4/91/11/92
 5/4/20/95
 Do Pass

(As Amended and Passed by the House April 5, 1995)

Passed House, ^(P. 2116) Date 4/28/95 Passed Senate, Date 4/20/95 (P. 1344)
 Vote: Ayes 70 Nays 24 Vote: Ayes 42 Nays 8
 Approved May 31, 1995 4/29/95
 Date 26-24 (P. 1534)

A BILL FOR

1 An Act providing for the regulation of animal feeding operations,
 2 fees, the expenditure of moneys, penalties, and an effective
 3 date.

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

- 5
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House Amendments _____

1 Section 1. NEW SECTION. 159.27 DISPOSAL OF MANURE WITHIN
2 DESIGNATED AREAS -- ADOPTION OF RULES.

3 The department shall adopt rules relating to the disposal
4 of manure in close proximity to a designated area. A person
5 shall not dispose of manure on cropland within two hundred
6 feet from a designated area, unless the manure is applied by
7 injection or incorporation within twenty-four hours following
8 the application. As used in this section, a "designated area"
9 means a sinkhole, well, cistern, abandoned well, unplugged
10 agricultural drainage well, drainage well surface inlet,
11 drinking water well, water impoundment or other similar area.

12 Sec. 2. NEW SECTION. 204.1 DEFINITIONS.

13 1. "Animal unit" means a unit of measurement used to
14 determine the animal capacity of an animal feeding operation,
15 based upon the product of multiplying the number of animals of
16 each species by the following:

- | | |
|--|-------|
| 17 a. Slaughter and feeder cattle | 1.0 |
| 18 b. Mature dairy cattle | 1.4 |
| 19 c. Butcher and breeding swine, over fifty-five pounds | 0.4 |
| 20 d. Sheep or lambs | 0.1 |
| 21 e. Horses | 2.0 |
| 22 f. Turkeys | 0.018 |
| 23 g. Broiler or layer chickens | 0.01 |

24 2. "Confinement feeding operation" means a confinement
25 feeding operation as defined in section 455B.161.

26 3. "Department" means the department of agriculture and
27 land stewardship.

28 4. "Fund" means the manure storage indemnity fund created
29 in section 204.2.

30 5. "Indemnity fee" means the fee provided in section
31 204.3.

32 6. "Manure" means animal excreta or other commonly
33 associated wastes of animals, including but not limited to
34 bedding, litter, or feed losses.

35 7. "Manure storage structure" means a structure used to

1 store manure as part of a confinement feeding operation
2 required to be constructed pursuant to a permit issued by the
3 department of natural resources pursuant to section 455B.173.
4 A manure storage structure includes, but is not limited to, an
5 anaerobic lagoon, formed manure storage structure, or earthen
6 manure storage basin, as defined in section 455B.161.

7 8. "Permittee" means a person who obtains a permit for the
8 construction of a confinement feeding operation, if a manure
9 storage structure is connected to the confinement feeding
10 operation.

11 Sec. 3. NEW SECTION. 204.2 MANURE STORAGE INDEMNITY
12 FUND.

13 1. A manure storage indemnity fund is created as a
14 separate fund in the state treasury under the control of the
15 department. The general fund of the state is not liable for
16 claims presented against the fund.

17 2. The fund consists of moneys from indemnity fees
18 remitted by permittees to the department of natural resources
19 and transferred to the department of agriculture and land
20 stewardship as provided in section 204.3; sums collected on
21 behalf of the fund by the department through legal action or
22 settlement; moneys required to be repaid to the department by
23 a county pursuant to this chapter; civil penalties assessed
24 and collected by the department of natural resources pursuant
25 to section 455B.191, against persons required to obtain a
26 permit for the construction of a confinement feeding
27 operation; moneys paid as a settlement involving an
28 enforcement action for a civil penalty subject to assessment
29 and collection by the department of natural resources pursuant
30 to section 455B.191; interest, property, and securities
31 acquired through the use of moneys in the fund; or moneys
32 contributed to the fund from other sources.

33 3. The moneys collected under this section and deposited
34 in the fund shall be appropriated to the department for the
35 exclusive purpose of indemnifying a county for expenses

1 related to removing and disposing of manure from a manure
2 storage structure, and to pay the department for costs related
3 to administering the provisions of this chapter. For each
4 fiscal year the department shall use not more than two percent
5 of the total amount which may be deposited in the fund to pay
6 for the costs of administration. Moneys in the fund shall not
7 be subject to appropriation or expenditure for any other
8 purpose.

9 4. The treasurer of state shall act as custodian of the
10 fund and disburse amounts contained in the fund as directed by
11 the department. The treasurer of state is authorized to
12 invest the moneys deposited in the fund. The income from such
13 investment shall be credited to and deposited in the fund.
14 Notwithstanding section 8.33, moneys in the fund are not
15 subject to reversion to the general fund of the state. The
16 fund shall be administered by the department which shall make
17 expenditures from the fund consistent with the purposes set
18 out in this chapter. The moneys in the fund shall be
19 disbursed upon warrants drawn by the director of revenue and
20 finance pursuant to the order of the department. The fiscal
21 year of the fund begins July 1. The finances of the fund
22 shall be calculated on an accrual basis in accordance with
23 generally accepted accounting principles. The auditor of
24 state shall regularly perform audits of the fund.

25 5. On August 31 following the close of each fiscal year,
26 moneys which are not obligated or encumbered on June 30 of the
27 past fiscal year, less the department's estimate of the cost
28 to the fund for pending or unsettled claims, and which are in
29 excess of five hundred thousand dollars, shall be deposited in
30 the organic nutrient management fund as created in section
31 161C.5 for purposes of supporting the organic nutrient
32 management program.

33 Sec. 4. NEW SECTION. 204.3 FEES.

34 An indemnity fee shall be assessed upon permittees which
35 shall be paid to and collected by the department of natural

1 resources, prior to issuing a permit for the construction of a
2 confinement feeding operation as provided in section 455B.173.
3 The amount of the fee shall equal two cents per animal unit of
4 capacity for confinement feeding operations housing poultry
5 and five cents per animal unit of capacity for confinement
6 feeding operations housing other species of animals. The
7 department of natural resources shall deposit moneys collected
8 from the fees into the fund according to procedures adopted by
9 the department of agriculture and land stewardship.

10 Sec. 5. NEW SECTION. 204.4 CLAIMS AGAINST THE FUND.

11 1. A county that has acquired real estate containing a
12 manure storage structure following nonpayment of taxes
13 pursuant to section 446.19, may make a claim against the fund
14 to pay the costs of removing and disposing of the manure from
15 a manure storage structure. Each claim shall include a bid by
16 a qualified person, other than a governmental entity, to
17 remove and dispose of the manure for a fixed amount specified
18 in the bid.

19 2. The department shall determine if a claim is eligible
20 to be satisfied under this section, and do one of the
21 following:

22 a. Pay the amount of the claim required in this section,
23 based on the fixed amount specified in the bid submitted by
24 the county upon completion of the work.

25 b. Obtain a lower fixed amount bid for the work from
26 another qualified person, other than a governmental entity,
27 and pay the amount of the claim required in this section,
28 based on the fixed amount in this bid upon completion of the
29 work. The department is not required to comply with section
30 18.6 in implementing this section.

31 3. Upon a determination that the claim is eligible for
32 payment, the department shall provide for payment of fifty
33 percent of the claim, as provided in this section, but not
34 more than one hundred fifty thousand dollars per claimant. If
35 at any time the department determines that there are

1 insufficient moneys to make payment of all claims, the
2 department shall pay claims according to the date that the
3 claims are received by the department. To the extent that a
4 claim cannot be fully satisfied, the department shall order
5 that the unpaid portion of the payment be deferred until the
6 claim can be satisfied. However, the department shall not
7 satisfy claims from moneys dedicated for the administration of
8 the fund.

9 4. In the event of payment of a claim under this section,
10 the fund is subrogated to the extent of the amount of the
11 payment to all rights, powers, privileges, and remedies of the
12 county regarding the payment amount. The county shall render
13 all necessary assistance to the department in securing the
14 rights granted in this section. A case or proceeding
15 initiated by a county which involves a claim submitted to the
16 department shall not be compromised or settled without the
17 consent of the department. A county shall not be eligible to
18 submit a claim to the department if the county has compromised
19 or settled a case or proceeding, without the consent of the
20 department.

21 5. If upon disposition of the real estate the county
22 realizes an amount which exceeds the total amount of the
23 delinquent real estate taxes, the county shall forward to the
24 fund any excess amount which is not more than the amount
25 expended by the fund.

26 Sec. 6. NEW SECTION. 204.5 NO STATE OBLIGATION.

27 This chapter does not imply any guarantee or obligation on
28 the part of this state, or any of its agencies, employees, or
29 officials, either elective or appointive, with respect to any
30 agreement or undertaking to which this chapter relates.

31 Sec. 7. NEW SECTION. 204.6 DEPARTMENTAL RULES.

32 The department shall adopt administrative rules pursuant to
33 chapter 17A necessary to administer this chapter.

34 Sec. 8. Section 455B.134, subsection 3, paragraph f,
35 subparagraph (1), unnumbered paragraph 2, Code 1995, is

1 amended to read as follows:

2 Anaerobic lagoons, constructed or expanded on or after June
3 20, 1979, but prior to the effective date of this Act, or
4 earthen waste slurry storage basins, constructed or expanded
5 on or after July 1, 1990, but prior to the effective date of
6 this Act, which are used in connection with animal feeding
7 operations containing less than six hundred twenty-five
8 thousand pounds live animal weight capacity of animal species
9 other than beef cattle or containing less than one million six
10 hundred thousand pounds live animal weight capacity of beef
11 cattle, shall be located at least one thousand two hundred
12 fifty feet from a residence not owned by the owner of the
13 feeding operation or from a public use area other than a
14 public road. Anaerobic lagoons or earthen waste slurry
15 storage basins, which are used in connection with animal
16 feeding operations containing six hundred twenty-five thousand
17 pounds or more live animal weight capacity of animal species
18 other than beef cattle or containing one million six hundred
19 thousand pounds or more live animal weight capacity of beef
20 cattle, shall be located at least one thousand eight hundred
21 seventy-five feet from a residence not owned by the owner of
22 the feeding operation or from a public use area other than a
23 public road. For the purpose of this paragraph the
24 determination of live animal weight capacity shall be based on
25 the average animal weight capacity during a production cycle
26 and the maximum animal capacity of the animal feeding
27 operation. ~~These separation distances apply to the~~
28 ~~construction of new facilities and the expansion of existing~~
29 ~~facilities.~~

30 SEPARATION DISTANCE REQUIREMENTS -- NEW PART

31 Sec. 9. NEW SECTION. 455B.161 DEFINITIONS.

32 As used in this part, unless the context otherwise
33 requires:

34 1. "Anaerobic lagoon" means an impoundment used in
35 conjunction with an animal feeding operation, if the primary

1 function of the impoundment is to store and stabilize organic
2 wastes, the impoundment is designed to receive wastes on a
3 regular basis, and the impoundment's design waste loading
4 rates provide that the predominant biological activity is
5 anaerobic. An anaerobic lagoon does not include any of the
6 following:

7 a. A confinement feeding operation structure.

8 b. A runoff control basin which collects and stores only
9 precipitation induced runoff from an animal feeding operation
10 in which animals are confined to areas which are unroofed or
11 partially roofed and in which no crop, vegetation, or forage
12 growth or residue cover is maintained during the period in
13 which animals are confined in the operation.

14 c. An anaerobic treatment system which includes collection
15 and treatment facilities for all off gases.

16 2. "Animal" means a domesticated animal belonging to the
17 bovine, porcine, ovine, caprine, equine, or avian species.

18 3. "Animal feeding operation" means a lot, yard, corral,
19 building, or other area in which animals are confined and fed
20 and maintained for forty-five days or more in any twelve-month
21 period, and all structures used for the storage of manure from
22 animals in the operation. Two or more animal feeding
23 operations under common ownership or management are deemed to
24 be a single animal feeding operation if they are adjacent or
25 utilize a common system for manure storage.

26 4. "Animal feeding operation structure" means an anaerobic
27 lagoon or confinement feeding operation structure.

28 5. "Animal weight capacity" means the product of
29 multiplying the maximum number of animals which the owner or
30 operator confines in an animal feeding operation at any one
31 time by the average weight during a production cycle.

32 6. "Commercial enterprise" means a building, constructed
33 prior to the effective date of this Act, which is part of a
34 profit or nonprofit business, organized as a corporation,
35 cooperative association, partnership, limited partnership,

1 limited liability company, proprietorship, or other entity
2 formed under the laws of the United States, or a state,
3 district, or territory of the United States, which is involved
4 in the manufacture of goods, the delivery of services, or the
5 sale of goods or services on a wholesale or retail basis. A
6 commercial enterprise does not include a farm operation.

7 7. "Confinement building" means a building used in
8 conjunction with a confinement feeding operation to house
9 animals.

10 8. "Confinement feeding operation" means an animal feeding
11 operation in which animals are confined to areas which are
12 totally roofed.

13 9. "Confinement feeding operation structure" means a
14 formed manure storage structure, egg washwater storage
15 structure, earthen manure storage basin, or confinement
16 building. A confinement feeding operation structure does not
17 include an anaerobic lagoon.

18 10. "Earthen manure storage basin" means an earthen
19 cavity, either covered or uncovered, which, on a regular
20 basis, receives waste discharges from a confinement feeding
21 operation if accumulated wastes from the basin are completely
22 removed at least twice each year.

23 11. "Educational institution" means a building in which an
24 organized course of study or training is offered to students
25 enrolled in kindergarten through grade twelve and served by
26 local school districts, accredited or approved nonpublic
27 schools, area education agencies, community colleges,
28 institutions of higher education under the control of the
29 state board of regents, and accredited independent colleges
30 and universities.

31 12. "Egg washwater storage structure" means an aerobic or
32 anaerobic structure used to store the wastewater resulting
33 from the washing and in-shell packaging of eggs.

34 13. "Formed manure storage structure" means a structure,
35 either covered or uncovered, used to store manure, which has

1 walls and a floor constructed of concrete, concrete block,
2 wood, steel, or similar materials.

3 14. "Manure" means animal excreta or other commonly
4 associated wastes of animals, including, but not limited to,
5 bedding, litter, or feed losses.

6 15. "Public use area" means that portion of public land
7 where persons customarily congregate, as provided by rules
8 which shall be adopted by the department.

9 16. "Religious institution" means a building, constructed
10 prior to the effective date of this Act, in which an active
11 congregation is devoted to worship.

12 Sec. 10. NEW SECTION. 455B.162 ANIMAL FEEDING OPERATIONS
13 -- NEW CONSTRUCTION AND EXPANSION.

14 The following shall apply to animal feeding operation
15 structures constructed on or after the effective date of this
16 Act; to the expansion of structures constructed on or after
17 the effective date of this Act; or, except as provided in
18 section 455B.163, to the expansion of structures constructed
19 prior to the effective date of this Act:

20 1. The following table represents the minimum separation
21 distance in feet required between an animal feeding operation
22 structure and a residence not owned by the owner of the animal
23 feeding operation, or a commercial enterprise, bona fide
24 religious institution or an educational institution:

25	Minimum separation	
26	distance in feet	Minimum separation
27	for operations	distance in feet
28	having an animal	for operations
29	weight capacity	having an animal
30	of less than	weight capacity of
31	625,000 pounds	625,000 or more
32	for animals other	pounds for animals
33	than beef cattle,	other than beef
34	or less than	cattle, or 1,600,000
35	1,600,000 pounds	or more pounds for

	for beef cattle	beef cattle
1 Type of structure		
2 Anaerobic lagoon	1,250	1,875
3 Uncovered earthen manure		
4 storage basin	1,250	1,875
5 Uncovered formed manure		
6 storage structure	1,000	1,500
7 Covered earthen manure		
8 storage basin	750	1,000
9 Covered formed manure		
10 storage structure	750	1,000
11 Confinement building	750	1,000
12 Egg washwater storage		
13 structure	750	1,000

14 2. The following table represents the minimum separation
 15 distance in feet required between animal feeding operation
 16 structures and a public use area or the corporate limits of a
 17 city:

	Minimum separation distance in feet for operations having an animal weight capacity of less than 625,000 pounds for animals other than beef cattle, or less than 1,600,000 pounds	Minimum separation distance in feet for operations having an animal weight capacity of 625,000 or more pounds for animals other than beef cattle, or 1,600,000 or more pounds for beef cattle
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
29 Type of structure	for beef cattle	beef cattle
30 Animal feeding		
31 operation structure	1,250	1,875

32 Sec. 11. NEW SECTION. 455B.163 DISTANCE SEPARATION
 33 REQUIREMENTS FOR ANIMAL FEEDING OPERATIONS -- EXPANSION OF
 34 STRUCTURES CONSTRUCTED PRIOR TO THE EFFECTIVE DATE OF THIS
 35 ACT.

1 An animal feeding operation which does not comply with the
2 distance requirements of section 455B.162, on the effective
3 date of this Act, may continue to operate regardless of those
4 separation distances. The animal feeding operation may be
5 expanded on or after the effective date of this Act,
6 regardless of those separation distances, if either of the
7 following applies:

8 1. The animal feeding operation structure as constructed
9 or expanded complies with the distance requirements of section
10 455B.162.

11 2. All of the following apply to the expansion of the
12 animal feeding operation:

13 a. No portion of the animal feeding operation after
14 expansion is closer than before expansion to a location or
15 object for which separation is required under section
16 455B.162.

17 b. The animal weight capacity of the animal feeding
18 operation as expanded is not more than the lesser of the
19 following:

20 (1) Double its capacity on the effective date of this Act.

21 (2) Either of the following:

22 (a) Six hundred twenty-five thousand pounds animal weight
23 capacity for animals other than beef cattle.

24 (b) One million six hundred thousand pounds animal weight
25 capacity for beef cattle.

26 Sec. 12. NEW SECTION. 455B.164 DISTANCE MEASUREMENTS.

27 All distances between locations or objects provided in this
28 part shall be measured from their closest points, as provided
29 by rules adopted by the department.

30 Sec. 13. NEW SECTION. 455B.165 DISTANCE SEPARATION
31 REQUIREMENTS -- EXEMPTIONS.

32 A separation distance requirement provided in this part
33 shall not apply to the following:

34 1. An animal feeding operation which provides for the
35 storage of manure exclusively in a dry form.

1 2. A confinement feeding operation structure, other than
2 an earthen manure storage basin, if the structure is part of a
3 confinement feeding operation which has an animal capacity of
4 two hundred or fewer animal units as defined in section 204.1.

5 3. An animal feeding operation structure which is
6 constructed or expanded, if the titleholder of the land
7 benefiting from the distance separation requirement executes a
8 written waiver with the titleholder of the land where the
9 structure is located, under such terms and conditions that the
10 parties negotiate. The written waiver becomes effective only
11 upon the recording of the waiver in the office of the recorder
12 of deeds of the county in which the benefited land is located.
13 The filed waiver shall preclude enforcement by the state of
14 this part as it relates to the animal feeding operation
15 structure.

16 4. An animal feeding operation which is constructed or
17 expanded within the corporate limits of a city, or the area
18 within a separation distance required pursuant to this part,
19 if the city approves a waiver which shall be memorialized in
20 writing. The written waiver becomes effective only upon
21 recording the waiver in the office of the recorder of deeds of
22 the county in which the benefited land is located. The filed
23 waiver shall preclude enforcement by the state of this part as
24 it relates to the animal feeding operation structure.

25 However, this subsection shall not affect a separation
26 distance required between residences as provided in this part.

27 5. An animal feeding operation structure which is located
28 within any distance from a residence, educational institution,
29 religious institution, city, or public use area, if the
30 residence, educational institution, or religious institution
31 was constructed or expanded, or the boundaries of the city or
32 public use area were expanded, after the date that the animal
33 feeding operation was established. The date the animal
34 feeding operation was established is the date on which the
35 animal feeding operation commenced operating. A change in

1 ownership or expansion of the animal feeding operation shall
2 not change the established date of operation.

3 Sec. 14. Section 455B.171, Code 1995, is amended by adding
4 the following new subsections:

5 NEW SUBSECTION. 1A. "Animal feeding operation" means a
6 lot, yard, corral, building, or other area in which animals
7 are confined and fed and maintained for forty-five days or
8 more in any twelve-month period, and all structures used for
9 the storage of manure from animals in the animal feeding
10 operation. Two or more animal feeding operations under common
11 ownership or management are deemed to be a single animal
12 feeding operation if they are adjacent or utilize a common
13 area or system for manure disposal.

14 NEW SUBSECTION. 1B. "Confinement feeding operation" means
15 the same as defined in section 455B.161.

16 NEW SUBSECTION. 7A. "Manure" means the same as defined in
17 section 455B.161.

18 NEW SUBSECTION. 7B. "Manure sludge" means the solid or
19 semisolid residue produced during the treatment of manure in
20 an anaerobic lagoon.

21 Sec. 15. Section 455B.173, subsection 3, unnumbered
22 paragraph 1, Code 1995, is amended to read as follows:

23 Establish, modify, or repeal rules relating to the
24 location, construction, operation, and maintenance of disposal
25 systems and public water supply systems and specifying the
26 conditions, including the viability of a system pursuant to
27 section 455B.174, under which the director shall issue,
28 revoke, suspend, modify, or deny permits for the operation,
29 installation, construction, addition to, or modification of
30 any disposal system or public water supply system, or for the
31 discharge of any pollutant ~~or-for-the-disposal-of-water-wastes~~
32 ~~resulting-from-poultry-and-livestock-operations~~. The rules
33 specifying the conditions under which the director shall issue
34 permits for the construction of an electric power generating
35 facility subject to chapter 476A shall provide for issuing a

1 conditional permit upon the submission of engineering
2 descriptions, flow diagrams and schematics that qualitatively
3 and quantitatively identify effluent streams and alternative
4 disposal systems that will provide compliance with effluent
5 standards or limitations.

6 Sec. 16. Section 455B.173, Code 1995, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 12. Adopt, modify, or repeal rules
9 relating to the construction or operation of animal feeding
10 operations. The rules shall include, but are not limited to,
11 minimum manure control requirements, requirements for
12 obtaining permits, and departmental evaluations of animal
13 feeding operations. The department shall collect an indemnity
14 fee as provided in section 204.3 prior to the issuance of a
15 construction permit. The department shall deposit moneys
16 collected in indemnity fees in the manure storage indemnity
17 fund created in section 204.2. The department shall issue a
18 permit for the construction of an animal feeding operation, if
19 an application is submitted according to procedures required
20 by the department, and the application meets standards
21 established by the department, regardless of whether the
22 animal feeding operation is required to obtain such a permit.
23 The department shall deliver a copy or require the applicant
24 to deliver a copy of the application for a construction permit
25 to the county board of supervisors in the county where the
26 animal feeding operation or animal feeding operation structure
27 subject to the permit is to be located. The department shall
28 not approve the application or issue a construction permit
29 until thirty days following delivery of the application to the
30 county board of supervisors. The department may consider
31 comments from the county board of supervisors, if the comments
32 are delivered to the department within fourteen days after
33 receipt of the application by the county board of supervisors.
34 Prior to granting a permit to a person for the construction of
35 an animal feeding operation, the department may require the

1 installation and operation of a hydrological monitoring system
2 for an exclusively earthen manure storage structure, if, after
3 an on-site inspection, the department determines that the site
4 presents an extraordinary potential for groundwater pollution.
5 A person shall not obtain a permit for the construction of a
6 confinement feeding operation, unless the person develops a
7 manure management plan as provided in section 455B.203. The
8 department shall not issue a permit to a person under this
9 subsection if an enforcement action by the department,
10 relating to a violation of this chapter concerning a
11 confinement feeding operation in which the person has an
12 interest, is pending. The department shall not issue a permit
13 to a person under this subsection for five years after the
14 date of the last offense committed by a person or animal
15 feeding operation in which the person holds a controlling
16 interest during which the person or operation was classified
17 as a habitual offender under section 455B.191. The department
18 shall conduct an annual review of each confinement feeding
19 operation which is a habitual offender and each confinement
20 feeding operation in which a habitual offender holds a
21 controlling interest. The department shall notify persons
22 classified as habitual offenders of their classification,
23 additional restrictions imposed upon the persons pursuant to
24 the classification, and special civil penalties that may be
25 imposed upon the persons. The notice shall be sent to the
26 persons by certified mail.

27 Sec. 17. Section 455B.191, Code 1995, is amended by adding
28 the following new subsections:

29 NEW SUBSECTION. 7. The department may impose a civil
30 penalty upon a habitual offender which shall not exceed
31 twenty-five thousand dollars for each day the offense
32 continues. A person shall be classified as a habitual
33 offender, if the person has committed three or more offenses
34 as described in this subsection prior to or after the
35 effective date of this Act, and was subject to the assessment

1 of a civil penalty or a court conviction, in the five years
2 prior to the date of the latest offense, counting any offense
3 committed by a confinement feeding operation in which the
4 person holds a controlling interest. A person shall be
5 removed from the classification of habitual offender on the
6 date on which the person and all animal feeding operations in
7 which the person holds a controlling interest have committed
8 less than three offenses described in this subsection for the
9 prior five years. For purposes of counting offenses, a
10 continuing and uninterrupted offense shall be considered as
11 one offense. Different types of offenses shall be counted as
12 separate offenses regardless of whether the offenses were
13 committed during the same period. An offense must relate to
14 one of the following:

15 a. The construction or operation of a confinement feeding
16 operation structure or anaerobic lagoon which is part of a
17 confinement feeding operation, or the installation or use of a
18 related pollution control device or practice, for which the
19 person must obtain a permit, in violation of this chapter, or
20 rules adopted by the department, including the terms or
21 conditions of the permit.

22 b. Intentionally making a false statement or
23 misrepresenting information to the department as part of an
24 application for a construction permit for a confinement
25 feeding operation structure or anaerobic lagoon which is part
26 of a confinement feeding operation, or the installation of a
27 related pollution control device or practice for which the
28 person must obtain a construction permit.

29 c. Failing to obtain a permit or approval by the
30 department in violation of this chapter or departmental rule
31 which requires a permit to construct or operate a confinement
32 feeding operation or use a confinement feeding operation
33 structure, anaerobic lagoon, or a pollution control device or
34 practice which is part of a confinement feeding operation.

35 d. Operating a confinement feeding operation, including a

1 confinement feeding operation structure or anaerobic lagoon
2 which is part of a confinement feeding operation, or the
3 related pollution control device or practice, which causes
4 pollution to the waters of the state, if the pollution was
5 caused intentionally, or caused by a failure to take measures
6 required to abate the pollution which resulted from an act of
7 God.

8 e. Failing to submit a manure management plan as required
9 pursuant to section 455B.203, or operating a confinement
10 feeding operation without having a manure management plan
11 approved by the department.

12 This subsection shall not apply, unless the department of
13 natural resources has previously notified the person of the
14 person's classification as a habitual offender as provided in
15 section 455B.173.

16 NEW SUBSECTION. 8. Moneys assessed and collected in civil
17 penalties imposed pursuant to this section on a person
18 required to obtain a permit for the construction of a
19 confinement feeding operation shall be deposited in the manure
20 storage indemnity fund as created in section 204.2.

21 ANIMAL FEEDING OPERATIONS

22 Sec. 18. NEW SECTION. 455B.201 MINIMUM MANURE CONTROL.

23 1. A confinement feeding operation shall retain all manure
24 produced by the operation between periods of manure disposal.
25 A confinement feeding operation shall not discharge manure
26 directly into water of the state or into a tile line that
27 discharges directly into water of the state.

28 2. Manure from an animal feeding operation shall be
29 disposed of in a manner which will not cause surface or
30 groundwater pollution. Disposal in accordance with this
31 chapter, rules adopted pursuant to the provisions of state
32 law, including this chapter, guidelines adopted pursuant to
33 this chapter, and section 159.27, shall be deemed as
34 compliance with this requirement.

35 Sec. 19. NEW SECTION. 455B.202 MANURE MANAGEMENT

1 PRACTICES.

2 1. The department shall adopt rules for manure management
3 practices by persons required to obtain a permit for the
4 construction of a confinement feeding operation which shall
5 include the following:

6 a. Requirements for the submission and approval of a
7 manure management plan as provided in section 455B.203.

8 b. Manure application practices, including manure
9 application rates on land based on the production of
10 designated crops and according to crop schedules. The
11 application rates shall be based on nitrogen use levels of
12 designated crops, if the land where the manure is applied does
13 not exceed soil loss limits. The department shall establish
14 manure application rates based on phosphorus use levels of
15 designated crops, and phosphorus levels in the soil if the land
16 where the manure is applied exceeds soil loss limits.

17 c. The testing and management of manure sludge contained
18 in an anaerobic lagoon.

19 d. The application of manure sludge to land based on the
20 phosphorus content of the sludge, the phosphorus needs of the
21 crops, and the phosphorus levels in the soil.

22 2. The department shall consider adopting requirements
23 which distinguish between practices based on different types
24 of manures, topography, ground cover, soil conditions, and the
25 vulnerability of surface and groundwater to contamination.

26 3. The department shall adopt rules based on
27 recommendations submitted by Iowa state university and the
28 division of soil conservation of the department of agriculture
29 and land stewardship.

30 Sec. 20. NEW SECTION. 455B.203 MANURE MANAGEMENT PLAN
31 REQUIREMENTS.

32 1. A person shall not receive a permit for the
33 construction of a confinement feeding operation as provided in
34 section 455B.173, unless the person submits and complies with
35 a manure management plan in accordance with rules which shall

1 be adopted by the department pursuant to chapter 17A. A
2 person classified as a habitual offender or a confinement
3 feeding operation in which a habitual offender owns a
4 controlling interest, pursuant to section 455B.191, must
5 submit a manure management plan to the department on an annual
6 basis, which must be approved by the department for the
7 following year of operation. The plan shall provide for the
8 application of manure in a manner that is consistent with
9 manure management practices provided in section 455B.202.

10 2. A manure management plan shall include, but is not
11 limited to, the following:

12 a. Calculations to determine the land area required for
13 application of manure from the confinement feeding operation
14 for the crop schedule specified in the plan.

15 b. The rate of manure application which shall be
16 consistent with the requirements of section 455B.202.

17 c. A crop schedule for land subject to application.

18 d. Manure sludge practices as required pursuant to
19 subsection 3.

20 3. A person operating a confinement feeding operation
21 which utilizes an anaerobic lagoon shall include a provision
22 for manure sludge management. The department shall adopt
23 rules for manure sludge management. The rules may include a
24 requirement that following approval of the plan by the
25 department, the depth of sludge be periodically determined,
26 the manure sludge tested for phosphorus content, and the
27 results of the test submitted to the department. The
28 department shall determine whether the person shall be
29 required to remove the manure sludge. If applied to land, the
30 department shall determine application practices pursuant to
31 section 455B.202, subsection 1, paragraphs "c" and "d", based
32 on the information submitted by the person and standards
33 recommended by Iowa state university.

34 4. A person receiving a permit for the construction of a
35 confinement feeding operation shall maintain a current manure

1 management plan and maintain records sufficient to demonstrate
2 compliance with the manure management plan. Chapter 22 shall
3 not apply to the records which shall be kept confidential by
4 the department and its agents and employees. The contents of
5 the records are not subject to disclosure except as follows:

6 a. Upon waiver by the person receiving the permit.

7 b. In an action or administrative proceeding commenced
8 under this chapter. Any hearing related to the action or
9 proceeding shall be closed.

10 c. When required by subpoena or court order.

11 5. The department may inspect the confinement feeding
12 operation at any time during normal working hours, and may
13 inspect records required to be maintained as part of the
14 manure management plan. The department shall regularly
15 inspect a confinement feeding operation if the operation or a
16 person holding a controlling interest in the operation is
17 classified as a habitual offender pursuant to section
18 455B.191. The department shall assess and the confinement
19 feeding operation shall pay the actual costs of the
20 inspection. However, in order to access the operation, the
21 departmental inspector must comply with standard disease
22 control restrictions customarily required by the operation.

23 6. A person required to submit a manure management plan
24 who is found in violation of the terms and conditions of the
25 plan shall not be subject to an enforcement action other than
26 assessment of a civil penalty pursuant to section 455B.191.

27 Sec. 21. NEW SECTION. 455B.204 DISTANCE REQUIREMENTS.

28 1. An animal feeding operation structure shall be located
29 at least five hundred feet away from the surface intake of an
30 agricultural drainage well or known sinkhole, and at least two
31 hundred feet away from a lake, river, or stream located within
32 the territorial limits of the state, any marginal river area
33 adjacent to the state, which can support a floating vessel
34 capable of carrying one or more persons during a total of a
35 six-month period in one out of ten years, excluding periods of

1 flooding. However, no distance separation is required between
2 a location or object and a farm pond or privately owned lake,
3 as defined in section 462A.2.

4 All distances between locations or objects shall be
5 measured from their closest points, as provided by rules
6 adopted by the department.

7 2. A person shall not dispose of manure closer to a
8 sinkhole, well, cistern, abandoned well, plugged agricultural
9 drainage well, drainage well surface inlet, drinking water
10 well, water impoundment or other similar area, as provided
11 pursuant to section 159.27.

12 Sec. 22. NEW SECTION. 657.11 ANIMAL FEEDING OPERATIONS.

13 1. The purpose of this section is to protect animal
14 agricultural producers who manage their operations according
15 to state and federal requirements from the costs of defending
16 nuisance suits, which negatively impact upon Iowa's
17 competitive economic position and discourage persons from
18 entering into animal agricultural production. This section is
19 intended to promote the expansion of animal agriculture in
20 this state by protecting persons engaged in the care and
21 feeding of animals. The general assembly has balanced all
22 competing interests and declares its intent to protect and
23 preserve animal agricultural production operations which
24 comply with the requirements of this section.

25 2. If a person obtains all applicable permits as required
26 in chapter 455B for the construction of an animal feeding
27 operation as defined in section 455B.161, the animal feeding
28 operation shall not be found to be a public or private
29 nuisance, under this chapter or under principles of common
30 law, regardless of the established date of the animal feeding
31 operation's construction or expansion, or whether the person
32 is required to obtain the permits or has obtained the permits
33 voluntarily. This nuisance suit protection includes
34 protection for, but is not limited to, the care or feeding of
35 animals; the handling or transportation of animals; the

1 treatment or disposal of wastes resulting from animals; the
2 transportation and application of animal wastes; and the
3 creation of noise, odor, dust, or fumes arising from an animal
4 feeding operation.

5 3. The nuisance suit protection provided in this section
6 does not apply to a nuisance action brought against an animal
7 feeding operation, which arises out of any of the following:

8 a. A violation of, or a failure to comply with, a federal
9 statute or regulation or state statute or rule involving the
10 operation.

11 b. The negligent manner in which an animal feeding
12 operation is conducted.

13 c. Pollution or change in condition of the waters of a
14 stream, the overflowing of water of the animal feeding
15 operation onto another person's land, or excessive soil
16 erosion onto another person's land, caused by the animal
17 feeding operation, unless the injury or damage is caused by an
18 act of God.

19 d. An injury to a person or damages to property caused by
20 the animal feeding operation before the effective date of this
21 Act. If the applicable permits are obtained on or after the
22 effective date of this Act, the nuisance suit protection does
23 not apply to injury or damages caused before the date the
24 applicable permits are obtained.

25 4. A plaintiff in a losing cause of action is liable to
26 the defendant for all costs and expenses incurred in the
27 defense of the action, if the cause of action is based on a
28 claim of a public or private nuisance. The costs shall
29 include but are not limited to reasonable attorney fees, court
30 costs, travel expenses, and other related incidental expenses.

31 Sec. 23. CONSULTATION WITH INTERESTED ORGANIZATIONS. The
32 department of natural resources shall request that the Iowa
33 pork producers association, the Iowa cattlemen's association,
34 the Iowa poultry association, the Iowa dairy products
35 association, Iowa state university, and the natural resources

1 conservation service of the United States department of
2 agriculture each appoint one member to consult with the
3 department regarding this Act, rules adopted pursuant to this
4 Act, and the Act's implementation. If the natural resources
5 conservation service refuses to consult with the department,
6 the department shall consult with a person designated by the
7 soil conservation division of the department of agriculture
8 and land stewardship. The department shall consult with
9 representatives in meetings which shall be conducted by the
10 department, upon the call of the director of the department or
11 the director's designee, or upon the request to the department
12 of any three members. The department shall request that the
13 representatives provide the department with recommendations
14 regarding the adoption of rules required to administer this
15 Act. This section is repealed on March 31, 2005.

16 Sec. 24. INDEMNITY FEES -- PRIOR PERMITTEES. The
17 indemnity fee imposed upon permittees pursuant to section
18 204.3, as enacted in this Act, shall be imposed upon all
19 persons who have received a permit by the department of
20 natural resources for the construction of a confinement
21 feeding operation with a manure storage structure as defined
22 in section 455B.161, as enacted in this Act, prior to the
23 effective date of this Act. However, an indemnity fee shall
24 not be imposed upon a person who has received a construction
25 permit more than ten years prior to the effective date of this
26 Act. To every extent possible, the department shall notify
27 all persons required to pay the fee. The notice shall be in
28 writing. The department shall establish a date when the fees
29 must be paid to the department, which shall be not less than
30 three months after the delivery of the notice. If a person is
31 delinquent in paying the indemnity fee when due, or if upon
32 examination, an underpayment of the fee is found by the
33 department, the person is subject to a penalty of ten dollars
34 or an amount equal to the amount of deficiency for each day of
35 the delinquency, whichever is less. After the date required

1 for payment, the department shall transfer all outstanding
2 claims to the department of agriculture and land stewardship.
3 The department of natural resources shall deliver to the
4 department of agriculture and land stewardship the most
5 current available information regarding the persons required
6 to pay the fee and any delinquency penalty, including the
7 names and addresses of the persons, and the capacity of the
8 confinement feeding operations subject to the permit. The
9 department of agriculture and land stewardship, in cooperation
10 with the attorney general, may bring a court action in order
11 to collect indemnity fees and delinquency penalties required
12 to be paid under this section.

13 Sec. 25. NOTICE. The department of natural resources
14 shall provide a written notice to persons required to develop
15 and comply with a manure management plan as provided in
16 section 455B.203, as enacted in this Act, not later than nine
17 months after the effective date of this Act. The notice shall
18 include information from section 455B.203, as enacted by this
19 Act, regarding delayed dates of compliance.

20 Sec. 26. DELAYED IMPLEMENTATION OF CERTAIN REQUIREMENTS.
21 Notwithstanding this Act, the following shall apply:

22 1. The department of natural resources shall adopt all
23 rules required to implement section 455B.203, as enacted by
24 this Act, not later than six months following the effective
25 date of this Act.

26 2. A person issued a permit for the construction of a
27 confinement feeding operation before the effective date of
28 this Act shall submit a manure management plan to the
29 department of natural resources not later than one year after
30 the adoption of departmental rules necessary to implement the
31 manure management plan requirements of section 455B.203, as
32 enacted in this Act. However, if a person required to submit
33 a delayed plan pursuant to this subsection violates section
34 455B.202, the person shall be required to submit the plan to
35 the department not later than one hundred twenty days

1 following notice by the department.

2 Sec. 27. PILOT PROJECT -- TESTING OF ANIMAL FEEDING

3 OPERATIONS. The department of natural resources shall, to the
4 extent moneys are appropriated by the Seventy-fifth General
5 Assembly, conduct a study of ten animal feeding operations and
6 their structures, including confinement feeding operations and
7 confinement feeding operation structures all as defined in
8 section 455B.161 as enacted in this Act, and manure management
9 and disposal systems used by such operations. The operations
10 and their structures or systems must have been constructed or
11 installed on or before July 1, 1985. The study shall
12 determine the extent to which operations and their structures
13 and manure management and disposal systems contribute to point
14 and nonpoint contamination of the state's groundwater and
15 surface water. A person owning or operating an animal feeding
16 operation shall cooperate with the department in carrying out
17 this section. The ten animal feeding operations subject to
18 the study shall be selected by the Leopold center for
19 sustainable agriculture as created pursuant to section 266.39.
20 The department shall report its findings and recommendations
21 to the general assembly not later than January 1, 1997.

22 Sec. 28. EFFECTIVE DATE. This Act, being deemed of
23 immediate importance, takes effect upon enactment.

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HOUSE FILE 519
FISCAL NOTE

A fiscal note for Amendment S-3484 to House File 519 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Amendment S-3484 to House File 519 provides for the regulation of animal feeding operations, fees, the expenditure of moneys, penalties, and an effective date.

ASSUMPTIONS

The following assumptions were used in determining the fiscal impact of House File 519 as amended by S-3484.

1. There were 454 construction permits granted by the Department of Natural Resources from January 1, 1984 to December 31, 1994.
2. The indemnity fund estimate does not include any fines or penalties that may go to the Fund.
3. The indemnity fund fees are based on two cents per animal unit for poultry and five cents per animal unit for other animals for facilities with less than 625,000 pounds of live animal weight capacity. For facilities with live animal weight capacity between 625,000 pounds and 1,250,000 pounds, the fees are based on three cents per animal unit for poultry and seven and one half cents per animal unit for other animals. For facilities with live animal weight capacity greater than 1,250,000 pounds, the fees are based on four cents per animal unit for poultry and ten cents per animal unit for other animals.
4. The estimated average animal units per poundage division is 1,042 animal units for facilities with less than 625,000 pounds of live animal weight; 1,406 animal units for facilities with live animal weight between 625,000 pounds and 1,250,000 pounds; 4,842 animal units for facilities with greater than 1,250,000 pounds of live animal weight.
5. The estimate of new permits issued in subsequent years is based on the average from the past five years, 90 construction permits. The estimate will remain at this level for all future years.
6. The Department of Natural Resources is responsible for regulation, the establishment and administration of rules, and the establishment and administration for the certification program of manure plan managers.
7. Up to 1.0% of the yearly fees of the indemnity fund may be allocated for administrative costs.
8. Costs to cleanup abandoned storage lagoons will be the responsibility of the State (100.0%). Manure would have no resale value.

FISCAL IMPACT

The estimated impact of HF 519 is as follows:

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Indemnity Fund:

The Department of Agriculture and Land Stewardship estimates that the fees from construction permits issued prior to 1995 and still in operation would be \$46,739. The estimated fees for the 1995 construction permits would be \$9,597.

The maximum amount the Department of Agriculture and Land Stewardship could receive for administrative costs would be 1.0% of the yearly fees. The first year would allow a maximum of \$467 to be allocated to the Department for administering the indemnity fund. The maximum amount to be allocated in subsequent years would be \$96 per year to administer the indemnity fund. The Department of Agriculture and Land Stewardship estimates the actual administrative costs at \$9,025 for the first year and \$1,455 for each subsequent year. The shortfall between the estimated fees and the estimated administrative cost would be \$8,558 for the first year and \$1,359 each subsequent year.

Possible clean up costs of manure storage lagoons:

The following is an example of the costs associated with various size storage lagoons.

Based on no value for animal nutrients and wet cleanup prices charged by commercial haulers using liquid tank wagons and pumps which handle solids and liquids, the current price charged for disposing of wet wastes ranges from one half cent to one cent per gallon. The majority of the construction permits that have been issued have a capacity of less than 3,200 animal units (8,000 hogs). The following table demonstrates the possible clean up costs for anaerobic lagoons of various capacities based on the above conditions.

Estimated Cleanup Cost for Lagoons

Animal Units/ Hog Capacity	Total Current Liquid Volume (app. gallons)	Cleanup Cost at \$.005	Cleanup Cost at \$.01
00/1,000	2,100,000	\$ 10,500	\$ 21,000
,560/3,900	8,200,000	\$ 41,000	\$ 82,000
,200/8,000	17,000,000	\$ 85,000	\$ 170,000
,600/24,000	60,000,000	\$ 300,000	\$ 600,000

Department of Natural Resources:

The Department of Natural Resources estimates an increase of 3.0 FTE positions in FY 1996 to meet the regulatory and program needs established within this Bill. The 3.0 FTE positions have an estimated cost of \$148,000 annually. In FY 1997 the Department estimates an additional 6.0 FTE positions will be needed. The six additional FTE positions would cost \$320,000 annually. Total State costs in FY 1997

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nd future years would be approximately \$470,000.

(LSB 1763HV.2, AMF)

FILED APRIL 20, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 519

S-3484

1 Amend House File 519, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Sec. ____ . Section 13.13, subsection 2, Code 1995,
6 is amended to read as follows:

7 2. The farm assistance program coordinator shall
8 contract with a nonprofit organization chartered in
9 this state to provide mediation services as provided
10 in chapters 654A and 654B. ~~The contract shall be~~
11 ~~awarded to the organization by July 17, 1990.~~ The farm
12 assistance program coordinator shall contract with a
13 nonprofit organization to provide mediation services
14 as provided in chapter 654C based upon a designation
15 forwarded by the organic nutrient management board. A
16 contract may be terminated by the coordinator upon
17 written notice and for good cause. The coordinator
18 shall notify the board six months prior to the
19 expiration of a contract or ten days prior to the
20 termination of a contract involving a nonprofit
21 organization providing mediation services as provided
22 in chapter 654C. The coordinator shall select an
23 organization to provide mediation services under
24 chapter 654C, if the coordinator does not receive the
25 board's selection in writing within thirty days
26 following the board's receipt of the notice of
27 expiration or termination of the contract. An
28 organization awarded the contract is designated as the
29 farm mediation service for the chapter for which the
30 organization is to provide mediation services, for the
31 duration of the contract. The An organization may,
32 upon approval by the coordinator, provide mediation
33 services other than as provided by law. The farm
34 mediation service is not a state agency for the
35 purposes of chapters 19A, 20, and 669.

36 Sec. ____ . Section 13.14, subsections 1 and 2, Code
37 1995, are amended to read as follows:

38 1. Meetings of ~~the~~ a farm mediation service are
39 closed meetings and are not subject to chapter 21.

40 2. Verbal or written information relating to the
41 mediation process and transmitted between a party to a
42 dispute and ~~the~~ a farm mediation service, including a
43 mediator or the mediation staff, or any other person
44 present during any stage of the mediation process
45 conducted by ~~the~~ a service, whether reflected in
46 notes, memoranda, or other work products in the case
47 files, is a confidential communication. Mediators and
48 staff members shall not be examined in any judicial or
49 administrative proceeding regarding confidential
50 communications and are not subject to judicial or

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1 administrative process requiring the disclosure of
2 confidential communications.

3 Sec. _____. Section 13.15, unnumbered paragraph 1,
4 Code 1995, is amended to read as follows:

5 The A farm mediation service providing mediation
6 services under chapter 654A or 654B shall recommend
7 rules to administer those chapters to the farm
8 assistance program coordinator. A mediation service
9 providing mediation services under chapter 654C shall
10 recommend rules to administer that chapter to the
11 organic nutrient management board. The board shall
12 submit the recommendations with comments or its own
13 recommendations to the farm assistance program
14 coordinator. The coordinator shall adopt rules
15 pursuant to chapter 17A to set the compensation of
16 mediators and to implement this subchapter and
17 chapters 654A and 654B.

18 Sec. _____. Section 13.16, Code 1995, is amended to
19 read as follows:

20 13.16 LIMITATION ON LIABILITY -- IMMUNITY FROM
21 SPECIAL ACTIONS.

22 1. A member of the a farm mediation mediation's
23 staff, including a mediator, employee, or agent of the
24 service, or member of a board for the service, is not
25 liable for civil damages for a statement or decision
26 made in the process of mediation, unless the member
27 acts in bad faith, with malicious purpose, or in a
28 manner exhibiting willful and wanton disregard of
29 human rights, safety, or property.

30 2. A judicial action which seeks an injunction,
31 mandamus, or similar equitable relief shall not be
32 brought against the a farm mediation service,
33 including a mediator, employee, or agent of the
34 service, or a member of a board for the service until
35 completion of the mediation process."

36 2. Page 1, by striking lines 6 through 11 and
37 inserting the following: "feet from a designated
38 area, unless one of the following applies:

39 1. The manure is applied by injection or
40 incorporation within twenty-four hours following the
41 application.

42 2. An area of permanent vegetation cover exists
43 for fifty feet surrounding the designated area and
44 that area is not subject to manure application.

45 As used in this section, "designated area" means a
46 known sinkhole, or a cistern, abandoned well,
47 unplugged agricultural drainage well, agricultural
48 drainage well surface inlet, drinking water well, or
49 lake, or a farm pond, or privately owned lake as
50 defined in section 462A.2. However, a "designated

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

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1 of the fee shall be ten cents per animal unit of
2 capacity for confinement feeding operations.

3 b. For poultry, the amount of the fee shall be
4 four cents per animal unit of capacity for confinement
5 feeding operations.

6 The".

7 12. Page 4, line 14,, by inserting after the words
8 "costs of" the following: "cleaning up the site of
9 the confinement feeding operation, including the costs
10 of".

11 13. Page 4, line 32,, by striking the word "fifty"
12 and inserting the following: "one hundred".

13 14. Page 4, by striking lines 33 and 34 and
14 inserting the following: "percent of the claim, as
15 provided in this section. If".

16 15. Page 5, by inserting after line 25 the
17 following:

18 "Sec. ____ . NEW SECTION. 204.4A MANURE REMOVAL.

19 A county which has acquired real estate containing
20 a confinement feeding operation structure, as defined
21 in section 455B.161, following the nonpayment of taxes
22 pursuant to section 446.19, may remove and dispose of
23 the manure at any time, and seek reimbursement for the
24 costs of the removal and disposal from the person
25 abandoning the real estate.

26 16. Page 5, by inserting after line 33 the
27 following:

28 "Sec. ____ . Section 260E.3, Code 1995, is amended
29 by adding the following new subsection:

30 NEW SUBSECTION. 6. After August 31, 1995, a
31 community college shall not enter into an agreement
32 for a project which includes program services for
33 employees of a confinement feeding operation as
34 defined in section 455B.161.

35 Sec. ____ . NEW SECTION. 455A.7A ORGANIC NUTRIENT
36 MANAGEMENT BOARD.

37 1. An organic nutrient management board is
38 established. Sections 69.16 and 69.16A apply to the
39 composition of the board. Members shall be entitled
40 to receive per diem as provided in section 7E.6 and
41 actual expenses.

42 2. The board shall consist of the following:

43 a. The following persons appointed as voting
44 members by the governor:

45 (1) Four persons actively engaged in agricultural
46 production. Each person must be a member of a
47 commodity organization or association which represents
48 agricultural producers generally.

49 (2) One person who is interested in environmental
50 quality issues. The person must be a member of an

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1 association or organization interested in the
2 protection or preservation of the natural environment.

3 b. The following persons who shall serve as voting
4 members:

5 (1) The director of the soil conservation division
6 of the department of agriculture and land stewardship
7 or a designee.

8 (2) The chairperson of the Iowa business council
9 or a designee.

10 c. The following persons who shall serve as ex
11 officio nonvoting members:

12 (1) A designee of the state office of the natural
13 resources conservation service of the United States
14 department of agriculture, upon request by the
15 governor.

16 (2) The director of the department of natural
17 resources or the director's designee.

18 (3) The dean of the college of agriculture at Iowa
19 state university or the dean's designee.

20 (4) Four members of the general assembly two of
21 whom are state senators, one appointed by the
22 president of the senate, after consultation with the
23 majority leader of the senate, and one appointed by
24 the minority leader of the senate, after consultation
25 with the president of the senate, from their
26 respective parties; and two of whom are state
27 representatives appointed by the speaker of the house,
28 one from the majority party after consultation with
29 the majority leader of the house and one from the
30 minority party after consultation with the minority
31 leader of the house.

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

36 4. The members appointed by the governor shall
37 serve three-year terms beginning and ending as
38 provided in section 69.19. However, the governor
39 shall appoint some initial members to serve for less
40 than three years to ensure members serve staggered
41 terms. A member appointed by the governor is eligible
42 for reappointment. However, a member shall not serve
43 for more than two full consecutive terms. A vacancy
44 on the board shall be filled for the unexpired portion
45 of the regular term in the same manner as regular
46 appointments are made. The board shall elect a
47 chairperson each year and meet at least once every
48 three months, and at the call of the chairperson or
49 upon the written request to the chairperson of three
50 or more voting members. Written notice of the time

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1 and place of the meeting shall be given to each
2 member. Four voting members constitute a quorum and
3 the affirmative vote of a majority of the voting
4 members present is necessary for any substantive
5 action to be taken by the board, except that a lesser
6 number may adjourn a meeting. The majority shall not
7 include any member who has a conflict of interest and
8 a statement by a member that the member has a conflict
9 of interest is conclusive for this purpose. A vacancy
10 in the membership does not impair the duties of the
11 board.

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

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

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

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

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

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

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

46 4. All civil penalties assessed by the department
47 and interest on the penalties shall be deposited in
48 the general fund of the state. However, civil
49 penalties assessed by the department and interest on
50 the penalties, arising out of violations imposed upon

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

12 Sec. ____ . NEW SECTION. 455B.110 ANIMAL FEEDING
13 OPERATIONS -- COMMISSION APPROVAL.

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

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

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

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

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

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

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

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

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

49 " ____ . "Livestock market" means any place where
50 animals are assembled from two or more sources for

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1 public auction, private sale, or on a commission
 2 basis, which is under state or federal supervision,
 3 including a livestock sale barn or auction market, if
 4 such animals are kept for ten days or less."

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

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

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

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

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

	"Minimum separation distance in feet for operations having an animal weight capacity of less than	Minimum separation distance in feet for operations having an animal weight capacity of
23		
24		
25		
26		
27		
28		
29	1,250,000 pounds	1,250,000 or more
30	for animals other	pounds for animals
31	than beef cattle,	other than beef
32	or less than	cattle, or 3,200,000
33	3,200,000 pounds	or more pounds for
34	for beef cattle	beef cattle
35	Type of structure	
36	Anaerobic lagoon	1,250 2,500
37	Uncovered earthen manure	
38	storage basin	1,250 2,500
39	Uncovered formed manure	
40	storage structure	1,000 2,000
41	Covered earthen manure	
42	storage basin	750 1,500
43	Covered formed manure	
44	storage structure	750 1,500
45	Confinement building	750 1,500
46	Egg washwater storage	
47	structure	750 1,500"

48 27. Page 10, line 16, by inserting after the word
 49 "or" the following: "a residence not owned by the
 50 owner of the animal feeding operation, a commercial

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1 enterprise, a bona fide religious institution, or an
2 educational institution located within".

3 28. Page 10, by striking lines 18 through 31 and
4 inserting the following:

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

17
18 Type of structure

19 Animal feeding

20 operation structure 1,250 2,500".

21 29. Page 11, line 34, by striking the words "An
22 animal feeding operation" and inserting the following:
23 "A confinement feeding operation structure".

24 30. Page 12, by striking lines 3 and 4 and
25 inserting the following: "confinement feeding
26 operation which qualifies as a small animal feeding
27 operation."

28 31. Page 12, line 28, by inserting after the word
29 "institution," the following: "commercial
30 enterprise".

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

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

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

38 35. Page 13, by inserting after line 2 the the
39 following:

40 "Sec. ____ . NEW SECTION. 455B.166 PUBLIC

41 HEARINGS.

42 The city, upon request, shall hold a public hearing
43 of residents who are affected by the construction or
44 expansion of the animal feeding operation within the
45 corporate limits of the city. A county, upon request,
46 shall hold a public hearing of residents who are
47 affected by the construction or expansion of an animal
48 feeding operation within the county. The hearing
49 shall be held within thirty days of a request for a
50 public hearing by a resident. The city or county

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1 shall provide ten days' advance notice of the date,
2 time, and location of the public hearing."

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

7 37. Page 13, by inserting after line 13 the
8 following:

9 "NEW SUBSECTION. 1B. "Animal weight capacity"
10 means the same as defined in section 455B.161."

11 38. Page 13, by inserting after line 20 the
12 following:

13 "NEW SUBSECTION. 23A. "Small animal feeding
14 operation" means the same as defined in section
15 455B.161."

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

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

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

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

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

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

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

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

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

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

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

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

48 51. Page 15, line 31, by striking the word
49 "offense" and inserting the following: "violation".

50 52. Page 15, line 33, by striking the word

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1 "offender" and inserting the following: "violator".
2 53. Page 15, line 33, by striking the word
3 "offenses" and inserting the following: "violations".
4 54. Page 15, line 34, by striking the words
5 "prior to or".
6 55. Page 16, line 2, by striking the words
7 "offense, counting any offense" and inserting the
8 following: "violation, counting any violation".
9 56. Page 16, line 5, by striking the word
10 "offender" and inserting the following: "violator".
11 57. Page 16, line 6, by striking the word
12 "animal" and inserting the following: "confinement".
13 58. Page 16, line 8, by striking the word
14 "offenses" and inserting the following: "violations".
15 59. Page 16, line 9, by striking the word
16 "offenses" and inserting the following: "violations".
17 60. Page 16, line 10, by striking the word
18 "offense" and inserting the following: "violation".
19 61. Page 16, line 11, by striking the word
20 "offense" and inserting the following: "violation".
21 62. Page 16, line 11, by striking the word
22 "offenses" and inserting the following: "violations".
23 63. Page 16, by striking line 12 and inserting
24 the following: "separate violations regardless of
25 whether the violations were".
26 64. Page 16, line 13, by striking the word
27 "offense" and inserting the following: "violation".
28 65. Page 17, line 14, by striking the word
29 "offender" and inserting the following: "violator".
30 66. Page 17, line 18, by striking the words
31 "required to obtain" and inserting the following:
32 "obtaining".
33 67. Page 17, line 29, by inserting after the word
34 "surface" the following: "water".
35 68. Page 17, line 30, by inserting before the
36 word "this" the following: "the provisions of state
37 law, including".
38 69. Page 17, by inserting after line 34 the
39 following:
40 "____. The owner of the confinement feeding
41 operation which discontinues the use of the operation
42 shall remove all manure from related confinement
43 feeding operation structures used to store manure, by
44 a date specified in an order issued to the operation
45 by the department of natural resources, or six months
46 following the date that the confinement feeding
47 operation is discontinued, whichever is earlier."
48 70. By striking page 17, line 35, through page
49 19, line 33, and inserting the following:
50 "Sec. ____ . NEW SECTION. 455B.202 MANURE

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1 MANAGEMENT PLAN -- REQUIREMENTS.

2 1. In order to receive a permit for the
3 construction of a confinement feeding operation as
4 provided in section 455B.173, a person shall submit a
5 manure management plan to the department together with
6 the application for a construction permit.

7 2. A manure management plan shall include all of
8 the following:

9 a. Calculations necessary to determine the land
10 area required for the application of manure from a
11 confinement feeding operation based on nitrogen use
12 levels in order to obtain optimum crop yields
13 according to a crop schedule specified in the plan,
14 and according to requirements adopted by the
15 department after receiving recommendations from the
16 organic nutrient management advisory board established
17 pursuant to section 455A.7A.

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

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

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

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

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

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

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

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

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

50 73. Page 21, by striking lines 8 through 11 and

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1 inserting the following: "known sinkhole, or a
2 cistern, abandoned well, unplugged agricultural
3 drainage well, agricultural drainage well surface
4 inlet, drinking water well, or lake, or a farm pond or
5 privately owned lake as defined in section 462A.2."

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

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

9 As used in this chapter, unless otherwise required:

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

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

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

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

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

30 6. "Permittee" means a person obtaining a permit
31 for the construction of an animal feeding operation
32 structure as provided in section 455B.173.

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

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

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

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

49 3. Unless mediation is cancelled, within twenty-
50 one days after receiving a mediation request, the farm

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

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

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

12 1. Listen to all involved parties.

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

15 3. Encourage compromise and workable solutions.

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

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

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

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

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

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

47 3. The parties to the mediation agreement may
48 enforce the mediation agreement as a legal contract.

49 4. If the parties do not agree to proceed with
50 mediation, or if a mediation agreement is not reached,

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1 the parties may sign a statement prepared by the
2 mediator that mediation proceedings were not conducted
3 or concluded or that the parties did not reach an
4 agreement.

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

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

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

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

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

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

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

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

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

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

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

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

42 "Sec. _____. INTERIM STUDY COMMITTEE -- LIVESTOCK
43 PRODUCTION.

44 1. The legislative council is requested to
45 establish an interim study committee to examine the
46 practices engaged in by packers, processors, and
47 buyers, including persons regulated by the grain
48 inspection, packers and stockyards administration,
49 United States department of agriculture, under the
50 federal Packers and Stockyards Act of 1921, as

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1 amended, 21 U.S.C. § 181, et seq. The interim

2 committee shall study the following issues:

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

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

15 2. The interim committee shall hold a public
16 hearing in each congressional district.

17 3. The interim committee shall report its findings
18 and recommendations to the general assembly not later
19 than the first day of the 1996 legislative session,
20 unless another date is established by the legislative
21 council."

22 83. By renumbering, relettering, or redesignating
23 and correcting internal references as necessary.

By COMMITTEE ON AGRICULTURE

BERL E. PRIEBE, Chairperson

S-3484 FILED APRIL 18, 1995

Adopted as amended 4/20/95 (p.1344)

HOUSE FILE 519

S-3515

1 Amend the amendment, S-3484, to House File 519, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. Page 10, by inserting after line 21 the
5 following:
6 " ". Page 14, line 15, by inserting after the
7 word "permit." the following: "The department shall
8 not approve a permit for the construction of three or
9 more animal feeding operation structures unless the
10 applicant files a statement approved by a professional
11 engineer registered pursuant to chapter 542B
12 certifying that the construction of the animal feeding
13 operation structure will not impede the drainage
14 through established drainage tile lines which cross
15 property boundary lines unless measures are taken to
16 reestablish the drainage prior to completion of
17 construction."

By DERRYL McLAREN
STEWART IVERSON, JR.

S-3515 FILED APRIL 20, 1995
ADOPTED (p. 1340)

HOUSE FILE 519

S-3516

1 Amend the amendment, S-3484, to House File 519, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. Page 7, by striking lines 12 through 22.

By BILL FINK
MICHAEL E. GRONSTAL

S-3516 FILED APRIL 20, 1995
LOST (p. 1339)

HOUSE FILE 519

S-3517

1 Amend the amendment, S-3484, as amended, passed,
2 and reprinted by the House, as follows:
3 1. Page 10, line 29, by inserting after the word
4 "permit." the following: "However, the sixty-day
5 requirement shall not apply to an application, if the
6 applicant is not required to obtain a permit in order
7 to construct an animal feeding operation structure or
8 to operate an animal feeding operation."

By BILL FINK

S-3517 FILED APRIL 20, 1995
ADOPTED (p. 1340)

HOUSE FILE 519

S-3519

1 Amend the amendment, S-3484, to House File 519, as
 2 amended, passed, and reprinted by the House, as
 3 follows:
 4 1. Page 11, by striking lines 4 and 5 and
 5 inserting the following:
 6 "____. Page 15, by striking lines 34 and 35, and
 7 inserting the following: "as described in this
 8 subsection. To be considered a violation that is
 9 applicable to a habitual violator determination, a
 10 violation must have been committed prior to the
 11 effective date of this Act and be subject to an action
 12 which is pending on the effective date of this Act, or
 13 the violation must be committed on or after the
 14 effective date of this Act. In addition, each
 15 violation must be subject to the assessment".
 16 2. Page 11, line 8, by striking the word
 17 "violation," and inserting the following: "violation
 18 provided in this subsection,".

By STEWART IVERSON, Jr.
 EMIL J. HUSAK

S-3519 FILED APRIL 20, 1995
 ADOPTED (p. 1342)

HOUSE FILE 519

S-3512

1 Amend the amendment, S-3484, to House File 519, as
 2 amended, passed, and reprinted by the House, as
 3 follows:
 A 4 1. Page 8, by striking lines 7 through 13 and
 5 inserting the following:
 6 ""____. "Public use area" means that portion of
 7 public land where persons customarily congregate, or
 8 where persons are planning to customarily congregate,
 9 as provided for in a recreation master plan approved
 10 by the area's policymaking body."
 11 2. Page 10, line 25, by inserting before the
 12 words "The department" the following: "An applicant
 13 for a construction permit shall not begin construction
 14 at the location of a site planned for the construction
 15 of an animal feeding operation structure, until the
 16 person has been granted a permit for the construction
 17 of the structure by the department."
 18 3. Page 10, by striking line 30.
 19 4. Page 10, by inserting before line 31 the
 20 following:
 21 "____. Page 14, line 30, by striking the word
 22 "may" and inserting the following: "shall".
 B 23 5. Page 15, by inserting after line 25 the
 24 following:
 25 "____. Page 22, by striking lines 25 through 30."
 26 6. By renumbering, relettering, or redesignating
 27 and correcting internal references as necessary.

By COMMITTEE ON NATURAL RESOURCES,
 ENVIRONMENT AND ENERGY
 BILL FINK, Chairperson

S-3512 FILED APRIL 20, 1995
 DIV. A-ADOPTED, DIV. B-RULED OUT OF ORDER (p. 1339 & 1344)

HOUSE FILE 519

S-3520

1 Amend the amendment, H-3484, to House File 519, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. Page 8, by inserting after line 20 the
5 following:
6 "____. Page 9, by striking line 20 and inserting
7 the following:
8 "1. Except as provided in subsection 2, the
9 following table shall apply to animal feeding
10 operation structures:
11 a. The following table represents the minimum
12 separation".
13 2. Page 8, by inserting after line 47 the
14 following:
15 "____. Page 10, line 14, by striking the figure
16 "2." and inserting the following: "b."
17 3. Page 9, by inserting after line 20 the
18 following:
19 "____. Page 10, by inserting before line 32 the
20 following:
21 "2. A confinement feeding operation having an
22 animal weight capacity of one million two hundred
23 fifty thousand or more pounds for animals other than
24 beef cattle, or three million two hundred thousand or
25 more pounds for beef cattle, shall only use a
26 confinement feeding operation, which, to every extent
27 practicable, incorporates generally accepted methods
28 and techniques for the treatment and stabilization of
29 sewage originating from human populations, according
30 to rules adopted by the department. The type and
31 degree of treatment technology required to be
32 installed shall be based on the size of the
33 confinement feeding operation. The rules shall
34 require that a confinement feeding operation subject
35 to this subsection, and constructed on or after the
36 effective date of this Act, be required to install a
37 treatment system employing bacterial action which is
38 maintained by the utilization of air or oxygen, and
39 which shall include aeration equipment. The equipment
40 shall be installed, operated, and maintained in
41 accordance with the manufacturer's instructions and
42 the requirements of rules adopted pursuant to this
43 subsection. This subsection shall not apply to a
44 confinement feeding operation which stores manure as
45 dry matter, or to an egg washwater storage
46 structure.""

By EMIL J. HUSAK

S-3520 FILED APRIL 20, 1995
ADOPTED (p. 1339)

HOUSE FILE 519

S-3524

1 Amend the amendment, S-3484, to House File 519, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. Page 12, by inserting after line 44 the
5 following:
6 "_____. By striking page 19, line 34, through page
7 20, line 10.
8 _____. Page 20, by striking lines 12 through 14 and
9 inserting the following: "operation at any time
10 during normal working hours. The department shall
11 regularly"."

By DERRYL McLAREN
BRAD BANKS

S-3524 FILED APRIL 20, 1995
ADOPTED (p. 1340)

HOUSE FILE 519

S-3525

1 Amend the amendment, S-3484, to House File 519, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. Page 15, line 23, by inserting after the word
5 "protection." the following: "A person is not
6 required to submit a manure management plan for an
7 animal feeding operation which has an animal weight
8 capacity of one hundred fifty thousand pounds or less,
9 to enjoy the protection."

By H. KAY HEDGE

S-3525 FILED APRIL 20, 1995
RULED OUT OF ORDER (p. 134)

HOUSE FILE 519

S-3523

1 Amend the amendment, S-3484, as amended, passed,
2 and reprinted by the House, as follows:

3 1. Page 15, by striking lines 15 through 27 and
4 inserting the following:

5 "_____. Page 21, by inserting before line 12 the
6 following:

7 "Sec. _____. Section 657.1, Code 1995, is amended to
8 read as follows:

9 657.1 NUISANCE -- WHAT CONSTITUTES -- ACTION TO
10 ABATE.

11 Whatever is injurious to health, indecent, or
12 unreasonably offensive to the senses, or an
13 obstruction to the free use of property, so as
14 essentially to interfere with the comfortable
15 enjoyment of life or property, is a nuisance, and a
16 civil action by ordinary proceedings may be brought to
17 enjoin and abate the same and to recover damages
18 sustained on account thereof.

19 Sec. _____. Section 657.2, subsection 1, Code 1995,
20 is amended to read as follows:

21 1. The erecting, continuing, or using any building
22 or other place for the exercise of any trade,
23 employment, or manufacture, which, by occasioning
24 noxious exhalations, unreasonably offensive smells, or
25 other annoyances, becomes injurious and dangerous to
26 the health, comfort, or property of individuals or the
27 public."

28 _____. By striking page 21, line 25, through page
29 22, line 30, and inserting the following:

30 "_____. If a person obtains all applicable permits
31 as required in chapter 455B for an animal feeding
32 operation as defined in section 455B.161, and if the
33 animal feeding operation complies with federal
34 statutes and regulations and state statutes and rules,
35 there shall be a rebuttable presumption that the
36 animal feeding operation is not a public or private
37 nuisance under this chapter or under principles of
38 common law, regardless of the established date of the
39 animal feeding operation's construction or expansion,
40 or whether the person is required to obtain a permit
41 or has obtained a permit voluntarily. However, if a
42 person submits a manure management plan as required
43 pursuant to section 455B.203 for a small animal
44 feeding operation, the person is not required to
45 obtain a permit as provided in section 455B.173 in
46 order to enjoy the same nuisance suit protection. The
47 rebuttable presumption may be overcome by clear and
48 convincing evidence that the animal feeding operation
49 unreasonably and continuously interferes with an
50 adjoining landowner's use and enjoyment of the

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1 landowner's real property in a manner that causes harm
2 to the use and enjoyment of the landowner's real
3 property. This nuisance suit protection includes
4 protection for, but is not limited to, the care and
5 feeding of animals; the handling or transportation of
6 animals; the treatment or disposal of wastes resulting
7 from animals; the transportation and application of
8 animal wastes; and the creation of noise, odor, dust,
9 or fumes arising from an animal feeding operation.

10 _____. If a claim contains an averment of a public
11 or private nuisance, it shall be accompanied by a
12 verification. The verification shall constitute a
13 certification by the signor that the party and the
14 party's attorney have carefully read the pleadings,
15 motions, or other papers of the case, and based on a
16 reasonable inquiry, believe that the claim is well
17 grounded in fact, is warranted by existing law, or a
18 good faith argument can be made for the extension,
19 modification, or reversal of existing law; or that the
20 claim is not made for an improper purpose, including
21 to harass, to cause unnecessary delay, or to impose a
22 needless increase in the cost of litigation. The
23 court, upon motion or its own initiative, shall award
24 the prevailing party costs of an action, which shall
25 be paid by the losing party or the losing party's
26 attorney, and which costs may include but are not
27 limited to reasonable attorney fees, if the action is
28 based upon a claim of public or private nuisance,
29 which is not well grounded in fact and is not
30 warranted by existing law or a good faith argument for
31 the extension, modification, or reversal of existing
32 law, or is brought for an improper purpose.

33 _____. The nuisance suit protection provided in this
34 section does not apply to a nuisance action brought
35 against an animal feeding operation which arises out
36 of an injury to a person or damages to property caused
37 by the animal feeding operation before the effective
38 date of this Act. If the applicable permits are or
39 the manure management plan is obtained on or after the
40 effective date of this Act, the nuisance suit
41 protection does not apply to injury or damages caused
42 before the date the applicable permits are obtained or
43 the manure management plan is submitted.""

44 2. By renumbering as necessary.

By TOM VILSACK
BERL E. PRIEBE
WILLIAM D. PALMER

S-3523 FILED APRIL 20, 1995

ADOPTED (p. 1340)

HOUSE FILE 519

S-3529

1 Amend the amendment, S-3484, to Senate File 519, as
 2 amended, passed, and reprinted by the House, as
 3 follows:

- A 4 1. Page 1, by striking lines 10 through 27 and
 5 inserting the following: "in chapters 654A and 654B,
 6 and 654C. ~~The contract shall be awarded to the~~
 7 ~~organization by July 1, 1990.~~ The contract may be
 8 terminated by the coordinator upon written notice and
 9 for good cause. The".
- 10 2. By striking page 1, line 36, through page 2,
 11 line 35, and inserting the following:
 12 "Sec. ____ . Section 13.15, unnumbered paragraph 1,
 13 Code 1995, is amended to read as follows:
 14 The farm mediation service shall recommend rules to
 15 the farm assistance program coordinator. The
 16 coordinator shall adopt rules pursuant to chapter 17A
 17 to set the compensation of mediators and to implement
 18 this subchapter and chapters 654A, and 654B, and
 19 654C."
 20 3. By striking page 4, line 35, through page 6,
 21 line 43.
 22 4. Page 12, by striking lines 15 through 17 and
 23 inserting the following: "department."

- B 24 5. Page 15, by striking lines 26 and 27 and
 25 inserting the following:
 26 " ____ . Page 22, line 35, by inserting after the
 27 word "association," the following: "the Iowa
 28 environmental council, the Iowa association of soil
 29 and water district commissioners, "."

By BILL FINK

S-3529 FILED APRIL 20, 1995 (p.1344) (p.1341)
 DIV. A-RULED OUT OF ORDER, DIV. B-RULED OUT OF ORDER

HOUSE FILE 519

S-3530

1 Amend the amendment, S-3484, to House File 519, as
 2 amended, passed, and reprinted by the House, as
 3 follows:

- 4 1. Page 15, line 23, by inserting after the word
 5 "protection." the following: "A person is not
 6 required to submit a manure management plan for an
 7 animal feeding operation which has an animal weight
 8 capacity of one hundred thousand pounds or less, to
 9 enjoy the protection."

By H. KAY HEDGE

S-3530 FILED APRIL 20, 1995
 RULED OUT OF ORDER (p.1341)

HOUSE FILE 519

S-3527

1 Amend the amendment, S-3484, to House File 519, as
2 amended, passed, and reprinted by the House, as
3 follows:
4 1. Page 3, by inserting after line 15 the
5 following:
6 "____. Page 2, line 30, by striking the word and
7 figure "section 455B.191" and inserting the following:
8 "chapter 455B"."
9 2. Page 8, by inserting after line 13 the
10 following:
11 "____. Page 9, line 9, by striking the words
12 "building, constructed" and inserting the following:
13 "building".
14 _____. Page 9, by striking line 10 and inserting
15 the following: "in which an active"."
16 3. Page 9, line 42, by striking the word "The"
17 and inserting the following: "A".

By MERLIN E. BARTZ

S-3527 FILED APRIL 20, 1995
ADOPTED (p. 1341)

HOUSE FILE 519

S-3528

1 Amend House File 519, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 13, by inserting before line 3 the
4 following:
5 "Sec. ____ . NEW SECTION. 455B.167 AUTHORITY OF
6 COUNTIES.
7 A county may adopt more stringent requirements than
8 provided in this part or in rules adopted by the
9 department pursuant to this part."
10 2. By renumbering as necessary.

By ANDY McKEAN
MARY A. LUNDBY
ROD HALVORSON

S-3528 FILED APRIL 20, 1995
LOST (p. 1342)

HOUSE FILE 519

S-3533

1 Amend the amendment, S-3484, to House File 519, as
 2 amended, passed, and reprinted by the House, as
 3 follows:

4 1. Page 8, by striking lines 23 through 47 and
 5 inserting the following:

6		"Minimum	
7		separation	
8		distance	
9	Minimum	in feet	Minimum
10	separation	for opera-	separation
11	distance	tions hav-	distance
12	in feet	ing an	in feet
13	for opera-	animal	for opera-
14	tions hav-	weight ca-	tions hav-
15	ing an	capacity of	ing an
16	animal	625,000	animal
17	weight ca-	or more	weight ca-
18	capacity of	pounds but	capacity of
19	less than	less than	1,250,000
20	625,000	1,250,000	or more
21	pounds	pounds	pounds
22	for	for ani-	for
23	animals	mals other	animals
24	other	than beef	other
25	than	cattle, or	than
26	beef	1,600,000	beef
27	cattle,	or more	cattle, or
28	or less	pounds but	3,200,000
29	than	less than	or more
30	1,600,000	3,200,000	pounds
31	pounds	pounds	for
32	for beef	for beef	beef
33	cattle	cattle	cattle
34	1,250	1,875	2,500
35	Anaerobic lagoon		
36	Uncovered earthen		
37	manure storage		
38	basin	1,250	1,875
39	Uncovered formed		
40	manure storage		
41	structure	1,000	1,500
42	Covered earthen		
43	manure storage		
44	basin	750	1,000
45	Covered formed		
46	manure storage		
47	structure	750	1,000
48	Confinement		
49	building	750	1,000
50	Egg washwater		
51	storage structure	750	1,000
52			1,500".

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1 2. Page 9, by striking lines 5 through 20 and
2 inserting the following:

3			"Minimum
4			separation
5			distance
6	Minimum	in feet	Minimum
7	separation	for opera-	separation
8	distance	tions hav-	distance
9	in feet	ing an	in feet
10	for opera-	animal	for opera-
11	tions hav-	weight ca-	tions hav-
12	ing an	capacity of	ing an
13	animal	625,000	animal
14	weight ca-	or more	weight ca-
15	capacity of	pounds but	capacity of
16	less than	less than	1,250,000
17	625,000	1,250,000	or more
18	pounds	pounds	pounds
19	for	for ani-	for
20	animals	mals other	animals
21	other	than beef	other
22	than	cattle, or	than
23	beef	1,600,000	beef
24	cattle,	or more	cattle, or
25	or less	pounds but	3,200,000
26	than	less than	or more
27	1,600,000	3,200,000	pounds
28	pounds	pounds	for
29	for beef	for beef	beef
30	Type of structure	cattle	cattle
31	Animal feeding		
32	operation structure	1,250	1,875 2,500".

By STEWART IVERSON, Jr.
EMIL J. HUSAK

S-3533 FILED APRIL 20, 1995
ADOPTED (p. 1341)

HOUSE FILE 519

S-3535

1 Amend House File 519, as amended, passed, and
2 reprinted by the House as follows:
3 1. Page 14, by striking line 26 and inserting the
4 following: "confinement feeding operation or
5 confinement feeding operation structure".
6 2. Page 14, line 31, by inserting after the word
7 "supervisors," the following: "regarding compliance
8 by the applicant with the legal requirements for the
9 construction of the confinement feeding operation
10 structure as provided in this chapter, and rules
11 adopted by the department pursuant to this chapter,".

By BRAD BANKS

S-3535 FILED APRIL 20, 1995
ADOPTED (p. 1343)

HOUSE FILE 519

S-3536

1 Amend the amendment, S-3484, to House File 519, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 9, by striking lines 21 through 23 and
5 inserting the following:

6 "____. Page 11, by striking lines 34 and 35."

7 2. By renumbering as necessary.

By STEWART IVERSON, Jr.

S-3536 FILED APRIL 20, 1995

WITHDRAWN (p. 1344)

HOUSE FILE 519

S-3539

1 Amend the amendment, S-3484, to Senate File 519, as
2 amended, passed, and reprinted by the House, as
3 follows:

4 1. Page 1, by striking lines 10 through 27 and
5 inserting the following: "in chapters 654A and, 654B,
6 and 654C. ~~The contract shall be awarded to the~~
7 ~~organization by July 17, 1990.~~ The contract may be
8 terminated by the coordinator upon written notice and
9 for good cause. The".

10 2. By striking page 1, line 36, through page 2,
11 line 35, and inserting the following:

12 "Sec. ____ . Section 13.15, unnumbered paragraph 1,
13 Code 1995, is amended to read as follows:

14 The farm mediation service shall recommend rules to
15 the farm assistance program coordinator. The
16 coordinator shall adopt rules pursuant to chapter 17A
17 to set the compensation of mediators and to implement
18 this subchapter and chapters 654A, and 654B, and
19 654C."

20 3. By striking page 4, line 35, through page 6,
21 line 43.

22 4. Page 12, by striking lines 15 through 17 and
23 inserting the following: "department."

24 5. Page 15, by inserting before line 28 the
25 following:

26 "____. Page 22, line 35, by inserting after the
27 word "association," the following: "the Iowa
28 environmental council, the Iowa association of soil
29 and water district commissioners, "."

By BILL FINK

S-3539 FILED APRIL 20, 1995

LOST (p. 1343)

HOUSE FILE 519

S-3531

1 Amend House File 519, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 14, line 8, by inserting after the figure
4 "12." the following: "a."
5 2. Page 15, line 9, by striking the word
6 "subsection" and inserting the following:
7 "paragraph".
8 3. Page 15, line 13, by striking the word
9 "subsection" and inserting the following:
10 "paragraph".
11 4. Page 15, by inserting after line 26 the
12 following:
13 "b. Provide for the issuance of permits for the
14 application of manure by spray irrigation equipment.
15 The department shall revoke a permit issued to a
16 person, and shall not issue a permit to a person,
17 under this paragraph, for five years after the date of
18 the last offense committed by the person or a
19 confinement feeding operation in which the person
20 holds a controlling interest, during which the person
21 or operation is classified as a habitual violator
22 under section 455B.191."
23 5. Page 17, by inserting after line 34 the
24 following:
25 "_____. A person shall not apply manure by spray
26 irrigation equipment, unless the person holds a permit
27 issued by the department authorizing such application,
28 as provided in section 455B.173."
29 6. By renumbering as necessary.

By DERRYL McLAREN
ALBERT G. SORENSEN

S-3531 FILED APRIL 20, 1995
ADOPTED (p. 1342)

HOUSE FILE 519

S-3532

1 Amend House File 519, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 14, line 34, by inserting before the word
4 "Prior" the following: "The department shall not
5 approve a permit for the construction of an animal
6 feeding operation or animal feeding operation
7 structure, unless the applicant files a statement
8 approved by the county board of supervisors or a
9 designee of the board, where the construction is to
10 occur, that the county board of supervisors or
11 designee has approved the construction site."

By BILL FINK

S-3532 FILED APRIL 20, 1995
LOST (p. 1343)

HOUSE FILE 519

S-3540

1 Amend House File 519, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 25, by inserting before line 22 the
4 following:
5 "Sec. ____ SEVERABILITY. If any provision of this
6 Act or the application of this Act to any person or
7 circumstance is held invalid, the invalidity does not
8 affect other provisions or applications of this Act
9 which shall be given effect without the invalid
10 provision or application, and to this end the
11 provisions of this Act are severable."
12 2. By renumbering as necessary.

By STEWART IVERSON, Jr.
BERL E. PRIEBE

S-3540 FILED APRIL 20, 1995
ADOPTED (p.1343)

HOUSE FILE 519

S-3541

1 Amend House File 519, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 22, by inserting before line 31 the
4 following:
5 " ____ . This section shall not require a person to
6 submit a manure management plan for an animal feeding
7 operation which has an animal weight capacity of one
8 hundred thousand pounds or less."
9 2. By renumbering as necessary.

By H. KAY HEDGE

S-3541 FILED APRIL 20, 1995
WITHDRAWN (p.1343)

HOUSE FILE 519

S-3542

1 Amend House File 519, as amended, passed, and re-
2 printed by the House, as follows:
3 1. Page 23, line 15, by striking the word and
4 figures "March 31, 2005" and inserting the following:
5 "July 1, 1995".

By BERL E. PRIEBE

S-3542 FILED APRIL 20, 1995
ADOPTED (p.1344)

SENATE AMENDMENT TO HOUSE FILE 519

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1 Amend House File 519, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Sec. _____. Section 13.13, subsection 2, Code 1995,
6 is amended to read as follows:

7 2. The farm assistance program coordinator shall
8 contract with a nonprofit organization chartered in
9 this state to provide mediation services as provided
10 in chapters 654A and 654B. ~~The contract shall be~~
11 ~~awarded to the organization by July 17, 1990.~~ The farm
12 assistance program coordinator shall contract with a
13 nonprofit organization to provide mediation services
14 as provided in chapter 654C based upon a designation
15 forwarded by the organic nutrient management board. A
16 contract may be terminated by the coordinator upon
17 written notice and for good cause. The coordinator
18 shall notify the board six months prior to the
19 expiration of a contract or ten days prior to the
20 termination of a contract involving a nonprofit
21 organization providing mediation services as provided
22 in chapter 654C. The coordinator shall select an
23 organization to provide mediation services under
24 chapter 654C, if the coordinator does not receive the
25 board's selection in writing within thirty days
26 following the board's receipt of the notice of
27 expiration or termination of the contract. An
28 organization awarded the contract is designated as the
29 farm mediation service for the chapter for which the
30 organization is to provide mediation services, for the
31 duration of the contract. The An organization may,
32 upon approval by the coordinator, provide mediation
33 services other than as provided by law. The farm
34 mediation service is not a state agency for the
35 purposes of chapters 19A, 20, and 669.

36 Sec. _____. Section 13.14, subsections 1 and 2, Code
37 1995, are amended to read as follows:

38 1. Meetings of the a farm mediation service are
39 closed meetings and are not subject to chapter 21.

40 2. Verbal or written information relating to the
41 mediation process and transmitted between a party to a
42 dispute and the a farm mediation service, including a
43 mediator or the mediation staff, or any other person
44 present during any stage of the mediation process
45 conducted by the a service, whether reflected in
46 notes, memoranda, or other work products in the case
47 files, is a confidential communication. Mediators and
48 staff members shall not be examined in any judicial or
49 administrative proceeding regarding confidential
50 communications and are not subject to judicial or

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1 administrative process requiring the disclosure of
2 confidential communications.

3 Sec. ____ . Section 13.15, unnumbered paragraph 1,
4 Code 1995, is amended to read as follows:

5 The A farm mediation service providing mediation
6 services under chapter 654A or 654B shall recommend
7 rules to administer those chapters to the farm
8 assistance program coordinator. A mediation service
9 providing mediation services under chapter 654C shall
10 recommend rules to administer that chapter to the
11 organic nutrient management board. The board shall
12 submit the recommendations with comments or its own
13 recommendations to the farm assistance program
14 coordinator. The coordinator shall adopt rules
15 pursuant to chapter 17A to set the compensation of
16 mediators and to implement this subchapter and
17 chapters 654A and 654B.

18 Sec. ____ . Section 13.16, Code 1995, is amended to
19 read as follows:

20 13.16 LIMITATION ON LIABILITY -- IMMUNITY FROM
21 SPECIAL ACTIONS.

22 1. A member of ~~the~~ a farm mediation mediation's
23 staff, including a mediator, employee, or agent of the
24 service, or member of a board for the service, is not
25 liable for civil damages for a statement or decision
26 made in the process of mediation, unless the member
27 acts in bad faith, with malicious purpose, or in a
28 manner exhibiting willful and wanton disregard of
29 human rights, safety, or property.

30 2. A judicial action which seeks an injunction,
31 mandamus, or similar equitable relief shall not be
32 brought against ~~the~~ a farm mediation service,
33 including a mediator, employee, or agent of the
34 service, or a member of a board for the service until
35 completion of the mediation process."

36 2. Page 1, by striking lines 6 through 11 and
37 inserting the following: "feet from a designated
38 area, unless one of the following applies:

39 1. The manure is applied by injection or
40 incorporation within twenty-four hours following the
41 application.

42 2. An area of permanent vegetation cover exists
43 for fifty feet surrounding the designated area and
44 that area is not subject to manure application.

45 As used in this section, "designated area" means a
46 known sinkhole, or a cistern, abandoned well,
47 unplugged agricultural drainage well, agricultural
48 drainage well surface inlet, drinking water well, or
49 lake, or a farm pond, or privately owned lake as
50 defined in section 462A.2. However, a "designated

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

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1 weight capacity of one million two hundred fifty
2 thousand or more pounds, the following shall apply:

3 a. For all animals other than poultry, the amount
4 of the fee shall be ten cents per animal unit of
5 capacity for confinement feeding operations.

6 b. For poultry, the amount of the fee shall be
7 four cents per animal unit of capacity for confinement
8 feeding operations.

9 The".

10 13. Page 4, line 14, by inserting after the words
11 "costs of" the following: "cleaning up the site of
12 the confinement feeding operation, including the costs
13 of".

14 14. Page 4, line 32, by striking the word "fifty"
15 and inserting the following: "one hundred".

16 15. Page 4, by striking lines 33 and 34 and
17 inserting the following: "percent of the claim, as
18 provided in this section. If".

19 16. Page 5, by inserting after line 25 the
20 following:

21 "Sec. ____ . NEW SECTION. 204.4A MANURE REMOVAL.

22 A county which has acquired real estate containing
23 a confinement feeding operation structure, as defined
24 in section 455B.161, following the nonpayment of taxes
25 pursuant to section 446.19, may remove and dispose of
26 the manure at any time, and seek reimbursement for the
27 costs of the removal and disposal from the person
28 abandoning the real estate."

29 17. Page 5, by inserting after line 33 the
30 following:

31 "Sec. ____ . Section 260E.3, Code 1995, is amended
32 by adding the following new subsection:

33 NEW SUBSECTION. 6. After August 31, 1995, a
34 community college shall not enter into an agreement
35 for a project which includes program services for
36 employees of a confinement feeding operation as
37 defined in section 455B.161.

38 Sec. ____ . NEW SECTION. 455A.7A ORGANIC NUTRIENT
39 MANAGEMENT BOARD.

40 1. An organic nutrient management board is
41 established. Sections 69.16 and 69.16A apply to the
42 composition of the board. Members shall be entitled
43 to receive per diem as provided in section 7E.6 and
44 actual expenses.

45 2. The board shall consist of the following:

46 a. The following persons appointed as voting
47 members by the governor:

48 (1) Four persons actively engaged in agricultural
49 production. Each person must be a member of a
50 commodity organization or association which represents

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1 agricultural producers generally.

2 (2) One person who is interested in environmental
3 quality issues. The person must be a member of an
4 association or organization interested in the
5 protection or preservation of the natural environment.

6 b. The following persons who shall serve as voting
7 members:

8 (1) The director of the soil conservation division
9 of the department of agriculture and land stewardship
10 or a designee.

11 (2) The chairperson of the Iowa business council
12 or a designee.

13 c. The following persons who shall serve as ex
14 officio nonvoting members:

15 (1) A designee of the state office of the natural
16 resources conservation service of the United States
17 department of agriculture, upon request by the
18 governor.

19 (2) The director of the department of natural
20 resources or the director's designee.

21 (3) The dean of the college of agriculture at Iowa
22 state university or the dean's designee.

23 (4) Four members of the general assembly two of
24 whom are state senators, one appointed by the
25 president of the senate, after consultation with the
26 majority leader of the senate, and one appointed by
27 the minority leader of the senate, after consultation
28 with the president of the senate, from their
29 respective parties; and two of whom are state
30 representatives appointed by the speaker of the house,
31 one from the majority party after consultation with
32 the majority leader of the house and one from the
33 minority party after consultation with the minority
34 leader of the house.

35 3. The department shall furnish the board with a
36 meeting place, staff, and all articles, supplies, and
37 services necessary to enable the board to perform its
38 duties.

39 4. The members appointed by the governor shall
40 serve three-year terms beginning and ending as
41 provided in section 69.19. However, the governor
42 shall appoint some initial members to serve for less
43 than three years to ensure members serve staggered
44 terms. A member appointed by the governor is eligible
45 for reappointment. However, a member shall not serve
46 for more than two full consecutive terms. A vacancy
47 on the board shall be filled for the unexpired portion
48 of the regular term in the same manner as regular
49 appointments are made. The board shall elect a
50 chairperson each year and meet at least once every

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1 three months, and at the call of the chairperson or
2 upon the written request to the chairperson of three
3 or more voting members. Written notice of the time
4 and place of the meeting shall be given to each
5 member. Four voting members constitute a quorum and
6 the affirmative vote of a majority of the voting
7 members present is necessary for any substantive
8 action to be taken by the board, except that a lesser
9 number may adjourn a meeting. The majority shall not
10 include any member who has a conflict of interest and
11 a statement by a member that the member has a conflict
12 of interest is conclusive for this purpose. A vacancy
13 in the membership does not impair the duties of the
14 board.

15 5. The board shall do all of the following:

16 a. Advise the department and the environmental
17 protection commission regarding manure management
18 practices.

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

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

39 d. Consider rules submitted by a farm mediation
40 service to the board, and make comments or further
41 recommendations which shall be submitted to the farm
42 assistance program coordinator pursuant to section
43 13.15.

44 e. Provide other information or perform other
45 duties which may be of assistance to animal feeding
46 operations.

47 Sec. _____. Section 455B.109, subsection 4, Code
48 1995, is amended to read as follows:

49 4. All civil penalties assessed by the department
50 and interest on the penalties shall be deposited in

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

15 Sec. . NEW SECTION. 455B.110 ANIMAL FEEDING
16 OPERATIONS -- COMMISSION APPROVAL.

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

26 18. Page 6, line 30, by striking the words
27 "SEPARATION DISTANCE" and inserting the following:
28 "ANIMAL FEEDING OPERATIONS".

29 19. Page 6, line 30, by inserting after the word
30 "PART" the following: "2".

31 20. Page 7, line 25, by inserting after the word
32 "storage." the following: "An animal feeding
33 operation does not include a livestock market."

34 21. By striking page 7, line 32, through page 8,
35 line 6, and inserting the following:

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

45 22. Page 8, line 22, by striking the word "twice"
46 and inserting the following: "once".

47 23. Page 8, line 35, by inserting after the word
48 "manure" the following: "from a confinement feeding
49 operation".

50 24. Page 9, by inserting after line 2 the

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1 following:

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

8 25. Page 9, by striking lines 6 through 8 and
9 inserting the following:

10 "____. "Public use area" means that portion of
11 public land where persons customarily congregate, or
12 where persons are planning to customarily congregate,
13 as provided for in a recreation master plan approved
14 by the area's policymaking body."

15 26. Page 9, line 9, by striking the words
16 "building, constructed" and inserting the following:
17 "building".

18 27. Page 9, by striking line 10 and inserting the
19 following: "in which an active".

20 28. Page 9, by inserting after line 11 the
21 following:

22 "17. "Small animal feeding operation" means an
23 animal feeding operation which has an animal weight
24 capacity of two hundred thousand pounds or less for
25 animals other than beef cattle, or four hundred
26 thousand pounds or less for beef cattle."

27 29. Page 9, by striking line 20 and inserting the
28 following:

29 "1. Except as provided in subsection 2, the
30 following table shall apply to animal feeding
31 operation structures:

32 a. The following table represents the minimum
33 separation".

34 30. By striking page 9, line 25, through page 10,
35 line 13, and inserting the following:

36		"Minimum	
37		separation	
38		distance	
39	Minimum	in feet	Minimum
40	separation	for opera-	separation
41	distance	tions hav-	distance
42	in feet	ing an	in feet
43	for opera-	animal	for opera-
44	tions hav-	weight ca-	tions hav-
45	ing an	capacity of	ing an
46	animal	625,000	animal
47	weight ca-	or more	weight ca-
48	capacity of	pounds but	capacity of
49	less than	less than	1,250,000
50	625,000	1,250,000	or more

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1	pounds	pounds	pounds
2	for	for ani-	for
3	animals	mals other	animals.
4	other	than beef	other
5	than	cattle, or	than
6	beef	1,600,000	beef
7	cattle,	or more	cattle, or
8	or less	pounds but	3,200,000
9	than	less than	or more
10	1,600,000	3,200,000	pounds
11	pounds	pounds	for
12	for beef	for beef	beef
13	cattle	cattle	cattle
14	1,250	1,875	2,500
15	Uncovered earthen		
16	manure storage		
17	basin	1,250	1,875
18	Uncovered formed		
19	manure storage		
20	structure	1,000	1,500
21	Covered earthen		
22	manure storage		
23	basin	750	1,000
24	Covered formed		
25	manure storage		
26	structure	750	1,000
27	Confinement		
28	building	750	1,000
29	Egg washwater		
30	storage structure	750	1,000
31			1,500".

31. Page 10, line 14, by striking the figure "2." and inserting the following: "b."

32. Page 10, line 16, by inserting after the word "or" the following: "a residence not owned by the owner of the animal feeding operation, a commercial enterprise, a bona fide religious institution, or an educational institution located within".

33. Page 10, by striking lines 18 through 31 and inserting the following:

40		"Minimum	
41		separation	
42		distance	
43	Minimum	in feet	Minimum
44	separation	for opera-	separation
45	distance	tions hav-	distance
46	in feet	ing an	in feet
47	for opera-	animal	for opera-
48	tions hav-	weight ca-	tions hav-
49	ing an	capacity of	ing an
50	animal	625,000	animal

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Page 10

1	weight ca-	or more	weight ca-
2	capacity of	pounds but	capacity of
3	less than	less than	1,250,000
4	625,000	1,250,000	or more
5	pounds	pounds	pounds
6	for	for ani-	for
7	animals	mals other	animals
8	other	than beef	other
9	than	cattle, or	than
10	beef	1,600,000	beef
11	cattle,	or more	cattle, or
12	or less	pounds but	3,200,000
13	than	less than	or more
14	1,600,000	3,200,000	pounds
15	pounds	pounds	for
16	for beef	for beef	beef
17	cattle	cattle	cattle

17 Type of structure

18 Animal feeding

19 operation structure 1,250 1,875 2,500".

20 34. Page 10, by inserting before line 32 the
21 following:

22 "2. A confinement feeding operation having an
23 animal weight capacity of one million two hundred
24 fifty thousand or more pounds for animals other than
25 beef cattle, or three million two hundred thousand or
26 more pounds for beef cattle, shall only use a
27 confinement feeding operation, which, to every extent
28 practicable, incorporates generally accepted methods
29 and techniques for the treatment and stabilization of
30 sewage originating from human populations, according
31 to rules adopted by the department. The type and
32 degree of treatment technology required to be
33 installed shall be based on the size of the
34 confinement feeding operation. The rules shall
35 require that a confinement feeding operation subject
36 to this subsection, and constructed on or after the
37 effective date of this Act, be required to install a
38 treatment system employing bacterial action which is
39 maintained by the utilization of air or oxygen, and
40 which shall include aeration equipment. The equipment
41 shall be installed, operated, and maintained in
42 accordance with the manufacturer's instructions and
43 the requirements of rules adopted pursuant to this
44 subsection. This subsection shall not apply to a
45 confinement feeding operation which stores manure as
46 dry matter, or to an egg washwater storage structure."

47 35. Page 11, line 34, by striking the words "An
48 animal feeding operation" and inserting the following:
49 "A confinement feeding operation structure".

50 36. Page 12, by striking lines 3 and 4 and

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Page 11

- 1 inserting the following: "confinement feeding
2 operation which qualifies as a small animal feeding
3 operation."
4 37. Page 12, line 28, by inserting after the word
5 "institution," the following: "commercial
6 enterprise".
7 38. Page 12, line 29, by inserting before the
8 word "religious" the following: "bona fide".
9 39. Page 12, line 30, by inserting after the
10 words "educational institution," the following:
11 "commercial enterprise,".
12 40. Page 12, line 30, by inserting before the
13 word "religious" the following: "bona fide".
14 41. Page 13, by inserting after line 2 the the
15 following:
16 "Sec. ____ . NEW SUBSECTION. 455B.166 PUBLIC
17 HEARINGS.
18 A city, upon request, shall hold a public hearing
19 of residents who are affected by the construction or
20 expansion of the animal feeding operation within the
21 corporate limits of the city. A county, upon request,
22 shall hold a public hearing of residents who are
23 affected by the construction or expansion of an animal
24 feeding operation within the county. The hearing
25 shall be held within thirty days of a request for a
26 public hearing by a resident. The city or county
27 shall provide ten days' advance notice of the date,
28 time, and location of the public hearing."
29 42. Page 13, line 13, by inserting after the word
30 "disposal." the following: "An animal feeding
31 operation does not include a livestock market as
32 defined in section 455B.161."
33 43. Page 13, by inserting after line 13 the
34 following:
35 "NEW SUBSECTION. 1B. "Animal weight capacity"
36 means the same as defined in section 455B.161."
37 44. Page 13, by inserting after line 20 the
38 following:
39 "NEW SUBSECTION. 23A. "Small animal feeding
40 operation" means the same as defined in section
41 455B.161."
42 45. Page 14, line 8, by inserting after the
43 figure "12." the following: "a."
44 46. Page 14, line 13, by inserting after the word
45 "operations." the following: "The department shall
46 not require that a person obtain a permit for the
47 construction of an animal feeding operation structure,
48 if the structure is part of a small animal feeding
49 operation."
50 47. Page 14, line 15, by inserting after the word

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Page 12

1 "permit." the following: "The department shall not
2 approve a permit for the construction of three or more
3 animal feeding operation structures unless the
4 applicant files a statement approved by a professional
5 engineer registered pursuant to chapter 542B
6 certifying that the construction of the animal feeding
7 operation structure will not impede the drainage
8 through established drainage tile lines which cross
9 property boundary lines unless measures are taken to
10 reestablish the drainage prior to completion of
11 construction."

12 48. Page 14, line 18, by striking the words "the
13 construction of".

14 49. Page 14, line 22, by inserting after the word
15 "permit." the following: "An applicant for a
16 construction permit shall not begin construction at
17 the location of a site planned for the construction of
18 an animal feeding operation structure, until the
19 person has been granted a permit for the construction
20 of the structure by the department. The department
21 shall make a determination regarding the approval or
22 denial of a permit within sixty days from the date
23 that the department receives a completed application
24 for a permit. However, the sixty-day requirement
25 shall not apply to an application, if the applicant is
26 not required to obtain a permit in order to construct
27 an animal feeding operation structure or to operate an
28 animal feeding operation."

29 50. Page 14, by striking line 26 and inserting
30 the following: "confinement feeding operation or
31 confinement feeding operation structure".

32 51. Page 14, line 30, by striking the word "may"
33 and inserting the following: "shall".

34 52. Page 14, line 31, by inserting after the word
35 "supervisors," the following: "regarding compliance
36 by the applicant with the legal requirements for the
37 construction of the confinement feeding operation
38 structure as provided in this chapter, and rules
39 adopted by the department pursuant to this chapter,".

40 53. Page 15, line 9, by striking the word
41 "subsection" and inserting the following:
42 "paragraph".

43 54. Page 15, line 13, by striking the word
44 "subsection" and inserting the following:
45 "paragraph".

46 55. Page 15, line 14, by striking the word
47 "offense" and inserting the following: "violation".

48 56. Page 15, line 14, by striking the word
49 "animal" and inserting the following: "confinement".

50 57. Page 15, line 17, by striking the word

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Page 13

- 1 "offender" and inserting the following: "violator".
2 58. Page 15, line 19, by striking the word
3 "offender" and inserting the following: "violator".
4 59. Page 15, line 20, by striking the word
5 "offender" and inserting the following: "violator".
6 60. Page 15, line 22, by striking the word
7 "offenders" and inserting the following: "violators".
8 61. Page 15, by inserting after line 26 the
9 following:
10 "b. Provide for the issuance of permits for the
11 application of manure by spray irrigation equipment.
12 The department shall revoke a permit issued to a
13 person, and shall not issue a permit to a person,
14 under this paragraph, for five years after the date of
15 the last offense committed by the person or a
16 confinement feeding operation in which the person
17 holds a controlling interest, during which the person
18 or operation is classified as a habitual violator
19 under section 455B.191."
20 62. Page 15, line 30, by striking the word
21 "offender" and inserting the following: "violator".
22 63. Page 15, line 31, by inserting after the word
23 "each" the following: "subsequent violation for
24 each".
25 64. Page 15, line 31, by striking the word
26 "offense" and inserting the following: "violation".
27 65. Page 15, line 33, by striking the word
28 "offender" and inserting the following: "violator".
29 66. Page 15, line 33, by striking the word
30 "offenses" and inserting the following: "violations".
31 67. Page 15, by striking lines 34 and 35, and
32 inserting the following: "as described in this
33 subsection. To be considered a violation that is
34 applicable to a habitual violator determination, a
35 violation must have been committed prior to the
36 effective date of this Act and be subject to an action
37 which is pending on the effective date of this Act, or
38 the violation must be committed on or after the
39 effective date of this Act. In addition, each
40 violation must be subject to the assessment".
41 68. Page 16, line 2, by striking the words
42 "offense, counting any offense" and inserting the
43 following: "violation provided in this subsection,
44 counting any violation".
45 69. Page 16, line 5, by striking the word
46 "offender" and inserting the following: "violator".
47 70. Page 16, line 6, by striking the word
48 "animal" and inserting the following: "confinement".
49 71. Page 16, line 8, by striking the word
50 "offenses" and inserting the following: "violations".

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Page 14

- 1 72. Page 16, line 9, by striking the word
2 "offenses" and inserting the following: "violations".
3 73. Page 16, line 10, by striking the word
4 "offense" and inserting the following: "violation".
5 74. Page 16, line 11, by striking the word
6 "offense" and inserting the following: "violation".
7 75. Page 16, line 11, by striking the word
8 "offenses" and inserting the following: "violations".
9 76. Page 16, by striking line 12 and inserting
10 the following: "separate violations regardless of
11 whether the violations were".
12 77. Page 16, line 13, by striking the word
13 "offense" and inserting the following: "violation".
14 78. Page 17, line 14, by striking the word
15 "offender" and inserting the following: "violator".
16 79. Page 17, line 18, by striking the words
17 "required to obtain" and inserting the following:
18 "obtaining".
19 80. Page 17, line 29, by inserting after the word
20 "surface" the following: "water".
21 81. Page 17, line 30, by inserting before the
22 word "this" the following: "the provisions of state
23 law, including".
24 82. Page 17, by inserting after line 34 the
25 following:
26 "_____. The owner of the confinement feeding
27 operation which discontinues the use of the operation
28 shall remove all manure from related confinement
29 feeding operation structures used to store manure, by
30 a date specified in an order issued to the operation
31 by the department of natural resources, or six months
32 following the date that the confinement feeding
33 operation is discontinued, whichever is earlier."
34 83. Page 17, by inserting after line 34 the
35 following:
36 "_____. A person shall not apply manure by spray
37 irrigation equipment, unless the person holds a permit
38 issued by the department authorizing such application,
39 as provided in section 455B.173."
40 84. By striking page 17, line 35, through page
41 19, line 33, and inserting the following:
42 "Sec. _____. NEW SECTION. 455B.202 MANURE
43 MANAGEMENT PLAN -- REQUIREMENTS.
44 1. In order to receive a permit for the
45 construction of a confinement feeding operation as
46 provided in section 455B.173, a person shall submit a
47 manure management plan to the department together with
48 the application for a construction permit.
49 2. A manure management plan shall include all of
50 the following:

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1 a. Calculations necessary to determine the land
2 area required for the application of manure from a
3 confinement feeding operation based on nitrogen use
4 levels in order to obtain optimum crop yields
5 according to a crop schedule specified in the plan,
6 and according to requirements adopted by the
7 department after receiving recommendations from the
8 organic nutrient management advisory board established
9 pursuant to section 455A.7A.

10 b. Manure nutrient levels as determined by either
11 manure testing or accepted standard manure nutrient
12 values.

13 c. Manure application methods, timing of manure
14 application, and the location of the manure
15 application.

16 d. If the location of the application is on land
17 other than land owned by the person applying for the
18 construction permit, the plan shall include a copy of
19 each written agreement executed between the person and
20 the landowner where the manure will be applied.

21 e. An estimate of the annual livestock production
22 and manure volume or weight produced by the
23 confinement feeding operation.

24 f. Methods, structures, or practices to prevent or
25 diminish soil loss and potential surface water
26 pollution.

27 g. Methods or practices to minimize potential
28 odors caused by the application of manure by the use
29 of spray irrigation equipment.

30 3. A person classified as a habitual violator or a
31 confinement feeding operation in which a habitual
32 violator owns a controlling interest, as provided in
33 section 455B.191, shall submit a manure management
34 plan to the department on an annual basis, which must
35 be approved by the department for the following year
36 of operation."

37 85. By striking page 19, line 34, through page
38 20, line 10.

39 86. Page 20, by striking lines 12 through 14 and
40 inserting the following: "operation at any time
41 during normal working hours. The department shall
42 regularly".

43 87. Page 20, line 17, by striking the word
44 "offender" and inserting the following: "violator".

45 88. Page 20, line 23, by striking the words
46 "required to submit" and inserting the following:
47 "submitting".

48 89. Page 21, by striking lines 8 through 11 and
49 inserting the following: "known sinkhole, or a
50 cistern, abandoned well, unplugged agricultural

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1 drainage well, agricultural drainage well surface
2 inlet, drinking water well, or lake, or a farm pond or
3 privately owned lake as defined in section 462A.2."

4 90. Page 21, by inserting before line 12 the
5 following:

6 "Sec. ____ . NEW SECTION. 654C.1 DEFINITIONS.

7 As used in this chapter, unless otherwise required:

8 1. "Animal feeding operation structure" means the
9 same as defined in section 455B.161.

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

15 3. "Farm mediation service" means the organization
16 selected pursuant to section 13.13.

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

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

28 6. "Permittee" means a person obtaining a permit
29 for the construction of an animal feeding operation
30 structure as provided in section 455B.173.

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

34 Sec. ____ . NEW SECTION. 654C.2 MEDIATION
35 PROCEEDINGS.

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

44 2. Both parties to the dispute shall file with the
45 farm mediation service information required by the
46 service to conduct mediation.

47 3. Unless mediation is cancelled, within twenty-
48 one days after receiving a mediation request, the farm
49 mediation service shall send a mediation meeting
50 notice to all parties to the dispute setting a time

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1 and place for an initial mediation meeting between the
2 parties and a mediator directed by the farm mediation
3 service to assist in mediation. An initial mediation
4 meeting shall be held within twenty-one days of the
5 issuance of the mediation meeting notice.

6 Sec. ____ . NEW SECTION. 654C.3 DUTIES OF THE
7 MEDIATOR.

8 At the initial mediation meeting and subsequent
9 meetings, the mediator shall:

- 10 1. Listen to all involved parties.
- 11 2. Attempt to mediate between all involved
12 parties.
- 13 3. Encourage compromise and workable solutions.
- 14 4. Advise, counsel, and assist the parties in
15 attempting to arrive at an agreement for the future
16 conduct of relations among themselves.

17 Sec. ____ . NEW SECTION. 654C.4 MEDIATION PERIOD.

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

23 Sec. ____ . NEW SECTION. 654C.5 MEDIATION
24 AGREEMENT.

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

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

45 3. The parties to the mediation agreement may
46 enforce the mediation agreement as a legal contract.

47 4. If the parties do not agree to proceed with
48 mediation, or if a mediation agreement is not reached,
49 the parties may sign a statement prepared by the
50 mediator that mediation proceedings were not conducted

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1 or concluded or that the parties did not reach an
2 agreement.

3 Sec. ____ . NEW SECTION. 654C.6 EXTENSION OF
4 DEADLINES.

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

8 Sec. ____ . NEW SECTION. 654C.7 EFFECT OF
9 MEDIATION.

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

13 91. Page 21, by inserting before line 12 the
14 following:

15 "Sec. ____ . Section 657.1, Code 1995, is amended to
16 read as follows:

17 657.1 NUISANCE -- WHAT CONSTITUTES -- ACTION TO
18 ABATE.

19 Whatever is injurious to health, indecent, or
20 unreasonably offensive to the senses, or an
21 obstruction to the free use of property, so as
22 essentially to interfere with the comfortable
23 enjoyment of life or property, is a nuisance, and a
24 civil action by ordinary proceedings may be brought to
25 enjoin and abate the same and to recover damages
26 sustained on account thereof.

27 Sec. ____ . Section 657.2, subsection 1, Code 1995,
28 is amended to read as follows:

29 1. The erecting, continuing, or using any building
30 or other place for the exercise of any trade,
31 employment, or manufacture, which, by occasioning
32 noxious exhalations, unreasonably offensive smells, or
33 other annoyances, becomes injurious and dangerous to
34 the health, comfort, or property of individuals or the
35 public."

36 92. By striking page 21, line 25, through page
37 22, line 30, and inserting the following:

38 " ____ . If a person obtains all applicable permits
39 as required in chapter 455B for an animal feeding
40 operation as defined in section 455B.161, and if the
41 animal feeding operation complies with federal
42 statutes and regulations and state statutes and rules,
43 there shall be a rebuttable presumption that the
44 animal feeding operation is not a public or private
45 nuisance under this chapter or under principles of
46 common law, regardless of the established date of the
47 animal feeding operation's construction or expansion,
48 or whether the person is required to obtain a permit
49 or has obtained a permit voluntarily. However, if a
50 person submits a manure management plan as required

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1 pursuant to section 455B.203 for a small animal
2 feeding operation, the person is not required to
3 obtain a permit as provided in section 455B.173 in
4 order to enjoy the same nuisance suit protection. The
5 rebuttable presumption may be overcome by clear and
6 convincing evidence that the animal feeding operation
7 unreasonably and continuously interferes with an
8 adjoining landowner's use and enjoyment of the
9 landowner's real property in a manner that causes harm
10 to the use and enjoyment of the landowner's real
11 property. This nuisance suit protection includes
12 protection for, but is not limited to, the care and
13 feeding of animals; the handling or transportation of
14 animals; the treatment or disposal of wastes resulting
15 from animals; the transportation and application of
16 animal wastes; and the creation of noise, odor, dust,
17 or fumes arising from an animal feeding operation.
18 _____. If a claim contains an averment of a public
19 or private nuisance, it shall be accompanied by a
20 verification. The verification shall constitute a
21 certification by the signor that the party and the
22 party's attorney have carefully read the pleadings,
23 motions, or other papers of the case, and based on a
24 reasonable inquiry, believe that the claim is well
25 grounded in fact, is warranted by existing law, or a
26 good faith argument can be made for the extension,
27 modification, or reversal of existing law; or that the
28 claim is not made for an improper purpose, including
29 to harass, to cause unnecessary delay, or to impose a
30 needless increase in the cost of litigation. The
31 court, upon motion or its own initiative, shall award
32 the prevailing party costs of an action, which shall
33 be paid by the losing party or the losing party's
34 attorney, and which costs may include but are not
35 limited to reasonable attorney fees, if the action is
36 based upon a claim of public or private nuisance,
37 which is not well grounded in fact and is not
38 warranted by existing law or a good faith argument for
39 the extension, modification, or reversal of existing
40 law, or is brought for an improper purpose.
41 _____. The nuisance suit protection provided in this
42 section does not apply to a nuisance action brought
43 against an animal feeding operation which arises out
44 of an injury to a person or damages to property caused
45 by the animal feeding operation before the effective
46 date of this Act. If the applicable permits are or
47 the manure management plan is obtained on or after the
48 effective date of this Act, the nuisance suit
49 protection does not apply to injury or damages caused
50 before the date the applicable permits are obtained or

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1 the manure management plan is submitted."

2 93. Page 23, line 15, by striking the word and
3 figures "March 31, 2005" and inserting the following:
4 "July 1, 1995".

5 94. Page 25, line 4, by striking the word
6 "Seventy-fifth" and inserting the following:
7 "Seventy-sixth".

8 95. Page 25, line 16, by striking the word
9 "shall" and inserting the following: "may".

10 96. Page 25, line 19, by inserting after the
11 figure "266.39." the following: "The identity of the
12 ten animal feeding operations shall be confidential
13 and not subject to chapter 22. The findings of the
14 study shall not be used in a case or proceeding
15 brought against a person based upon a violation of
16 state law."

17 97. Page 25, by inserting after line 21, the
18 following:

19 "Sec. ____ . INTERIM STUDY COMMITTEE -- LIVESTOCK
20 PRODUCTION.

21 1. The legislative council is requested to
22 establish an interim study committee to examine the
23 practices engaged in by packers, processors, and
24 buyers, including persons regulated by the grain
25 inspection, packers and stockyards administration,
26 United States department of agriculture, under the
27 federal Packers and Stockyards Act of 1921, as
28 amended, 21 U.S.C. § 181, et seq. The interim
29 committee shall study the following issues:

30 a. The increasing degree of vertical integration
31 of the livestock market by packers and processors,
32 including threats to economic competition, independent
33 production, and consumer protection.

34 b. Market practices engaged in by packers,
35 processors, or buyers which increasingly threaten open
36 and fair markets, by establishing arbitrary and
37 inconsistent pricing without public disclosure or
38 price discovery mechanisms, including price
39 differences based on the time of delivery, transaction
40 volume, and private pricing arrangements under
41 contract.

42 2. The interim committee shall hold a public
43 hearing in each congressional district.

44 3. The interim committee shall report its findings
45 and recommendations to the general assembly not later
46 than the first day of the 1996 legislative session,
47 unless another date is established by the legislative
48 council."

49 98. Page 25, by inserting before line 22 the
50 following:

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1 "Sec. ____ SEVERABILITY. If any provision of this
2 Act or the application of this Act to any person or
3 circumstance is held invalid, the invalidity does not
4 affect other provisions or applications of this Act
5 which shall be given effect without the invalid
6 provision or application, and to this end the
7 provisions of this Act are severable."
8 99. By renumbering, relettering, or redesignating
9 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-4033 FILED APRIL 24, 1995

*House Concurred**4-28-95**(P. 2116)*

HOUSE FILE 519

H-4127

- 1 Amend the Senate amendment, H-4033, to House File
- 2 519, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 10, by striking lines 20 through 46.
- 5 2. By renumbering and correcting internal
- 6 references as necessary.

By GREIG of Emmet

H-4127 FILED APRIL 27, 1995

WITHDRAWN 4-28-95 (P. 2115)

HOUSE FILE 519

H-4128

- 1 Amend the Senate amendment, H-4033, to House File
- 2 519, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 15, by striking lines 27 through 29.
- 5 2. By renumbering as necessary.

By GREIG of Emmet

H-4128 FILED APRIL 27, 1995

WITHDRAWN
4-28-95

HOUSE FILE 519

H-4129

- 1 Amend the Senate amendment, H-4033, to House File
- 2 519, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 20, by striking lines 17 through 48.
- 5 2. By renumbering as necessary.

By GREIG of Emmet

H-4129 FILED APRIL 27, 1995

WITHDRAWN
4-28-95

HOUSE FILE 519

H-4132

- 1 Amend the Senate amendment, H-4033, to House File
- 2 519, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. By striking page 8, line 27 through page 9,
- 5 line 32.
- 6 2. By striking page 9, line 38 through page 10,
- 7 line 19.
- 8 3. By renumbering as necessary.

By GREIG of Emmet

H-4132 FILED APRIL 27, 1995

WITHDRAWN 4-28-95

HOUSE FILE 519

H-4133

- 1 Amend the Senate amendment, H-4033, to House File
- 2 519, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 12, by striking lines 29 through 39.
- 5 2. By renumbering as necessary.

By GREIG of Emmet

H-4133 FILED APRIL 27, 1995

WITHDRAWN 4/28/95

HOUSE FILE 519

H-4145

1 Amend the Senate amendment, H-4033, to House File
2 519, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by striking lines 10 through 31 and
5 inserting the following: "in chapters 654A and, 654B,
6 and 654C. ~~The contract shall be awarded to the~~
7 ~~organization by July 1, 1990.~~ The contract may be
8 terminated by the coordinator upon written notice and
9 for good cause. The organization awarded the contract
10 is designated as the farm mediation service for the
11 duration of the contract. The organization may,".

12 2. By striking page 1, line 36, through page 2,
13 line 35, and inserting the following:

14 "Sec. ____ . Section 13.15, unnumbered paragraph 1,
15 Code 1995, is amended to read as follows:

16 The farm mediation service shall recommend rules to
17 the farm assistance program coordinator. The
18 coordinator shall adopt rules pursuant to chapter 17A
19 to set the compensation of mediators and to implement
20 this subchapter and chapters 654A, and 654B, and
21 654C."

22 3. Page 2, line 49, by striking the word "pond,"
23 and inserting the following: "pond".

24 4. Page 3, line 1, by striking the word "outlet"
25 and inserting the following: "inlet".

26 5. Page 3, by inserting after line 10 the
27 following:

28 " ____ . Page 2, line 8, by inserting after the word
29 "of" the following: "a manure storage structure,
30 or"."

31 6. Page 3, by striking lines 11 through 18 and
32 inserting the following:

33 " ____ . Page 2, by striking lines 25 through 30 and
34 inserting the following: "to chapter 455B, against
35 permittees; moneys paid as a settlement involving an
36 enforcement action for a civil penalty subject to
37 assessment and collection against permittees by the
38 department of natural resources pursuant to chapter
39 455B; interest, property, and securities"."

40 7. Page 3, by striking lines 22 and 23 and
41 inserting the following:

42 " ____ . Page 3, by striking lines 4 and 5 and
43 inserting the following: "fiscal year, the department
44 shall not use more than one percent of the total
45 amount which is available in the fund or ten thousand
46 dollars, whichever is less, to pay"."

47 8. Page 3, line 30, by striking the words "animal
48 feeding" and inserting the following: "confinement
49 feeding".

50 9. Page 3, line 39, by striking the words "animal

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Page 2

1 feeding" and inserting the following: "confinement
2 feeding".

3 10. Page 3, line 50, by striking the words
4 "animal feeding" and inserting the following:
5 "confinement feeding".

6 11. Page 4, by inserting after line 18 the
7 following:

8 "_____. Page 5, line 25, by inserting after the
9 word "fund" the following: "to pay the claim by the
10 county".

11 12. Page 4, line 21, by striking the words
12 "MANURE REMOVAL" and inserting the following: "SITE
13 CLEANUP".

14 13. Page 4, by striking lines 25 and 26 and
15 inserting the following: "pursuant to section 446.19,
16 may cleanup the site, including removing and disposing
17 of manure at any time. The county may seek
18 reimbursement including by bringing an action for
19 the".

20 14. Page 4, by striking line 28 and inserting the
21 following: "abandoning the real estate.

22 A person cleaning up a site located on real estate
23 acquired by a county may dispose of any building or
24 equipment used in the confinement feeding operation
25 located on the land according to rules adopted by the
26 department of natural resources pursuant to chapter
27 17A, which apply to the disposal of farm buildings or
28 equipment by an individual or business organization."

29 15. By striking page 4, line 38, through page 6,
30 line 46.

31 16. Page 7, by striking lines 3 through 5 and
32 inserting the following: "penalties, arising out of
33 violations committed by animal feeding operations
34 under division II,".

35 17. Page 7, by striking lines 9 through 11 and
36 inserting the following: "the penalties arising out
37 of violations committed by animal feeding operations
38 under division III, which may be".

39 18. Page 7, line 23, by inserting after the word
40 "shall" the following: "not apply to an enforcement
41 action in which the department enforces a civil
42 penalty of three thousand dollars or less. This
43 section shall also".

44 19. Page 7, by striking lines 41 and 42 and
45 inserting the following: "and which is connected to
46 electric, water, and sewer systems. A".

47 20. Page 7, by inserting before line 45 the
48 following:

49 "_____. Page 8, by inserting after line 17 the
50 following:

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Page 3

1 "____". "Covered" means organic or inorganic
 2 material placed upon an animal feeding operation
 3 structure used to store manure as provided by rules
 4 adopted by the department after receiving
 5 recommendations which shall be submitted to the
 6 department by the college of agriculture at Iowa state
 7 university."

8 21. Page 8, by striking lines 10 through 14 and
 9 inserting the following:

10 "____". "Public use area" means that portion of
 11 land owned by the United States, the state, or a
 12 political subdivision with facilities which attract
 13 the public to congregate and remain in the area for
 14 significant periods of time, as provided by rules
 15 which shall be adopted by the department pursuant to
 16 chapter 17A."

17 22. Page 8, line 25, by striking the words "beef
 18 cattle" and inserting the following: "bovine".

19 23. Page 8, by striking line 26 and inserting the
 20 following: "thousand pounds or less for bovine."

21 _____. "Swine farrow-to-finish operation" means a
 22 confinement feeding operation in which porcine are
 23 produced and in which a primary portion of the phases
 24 of the production cycle are conducted at one
 25 confinement feeding operation. Phases of the
 26 production cycle include, but are not limited to,
 27 gestation, farrowing, growing, and finishing."

28 24. Page 9, by striking lines 1 through 13 and
 29 inserting the following:

30	"pounds	pounds	pounds
31	for	for ani-	for
32	animals	mals other	ani-
33	other	than	mals
34	than	bovine, or	other
35	bovine,	1,600,000	than
36	or	or more	bovine,
37	less	pounds but	or
38	than	less than	4,000,000
39	1,600,000	4,000,000	or more
40	pounds	pounds	pounds
41	Type of structure	for bovine	for bovine".

42 25. Page 10, by striking lines 5 through 17 and
 43 inserting the following:

44	"pounds	pounds	pounds
45	for	for ani-	for
46	animals	mals other	ani-
47	other	than	mals
48	than	bovine, or	other
49	bovine,	1,600,000	than
50	or	or more	bovine,

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Page 4

1	less	pounds but	or
2	than	less than	4,000,000
3	1,600,000	4,000,000	or more
4	pounds	pounds	pounds
5	Type of structure	for bovine	for bovine for bovine".

6 26. Page 10, by striking lines 22 through 46 and
7 inserting the following:

8 "2. a. As used in this subsection, a "qualified
9 confinement feeding operation" means a confinement
10 feeding operation having an animal weight capacity of
11 two million or more pounds for animals other than
12 animals kept in a swine farrow-to-finish operation or
13 bovine kept in a confinement feeding operation; a
14 swine farrow-to-finish operation having an animal
15 weight capacity of two million five hundred thousand
16 or more pounds; or a confinement feeding operation
17 having an animal weight capacity of four million or
18 more pounds for bovine.

19 b. A qualified confinement feeding operation shall
20 only use an animal feeding operation structure which
21 employs bacterial action which is maintained by the
22 utilization of air or oxygen, and which shall include
23 aeration equipment. The type and degree of treatment
24 technology required to be installed shall be based on
25 the size of the confinement feeding operation,
26 according to rules adopted by the department. The
27 equipment shall be installed, operated, and maintained
28 in accordance with the manufacturer's instructions and
29 requirements of rules adopted pursuant to this
30 subsection.

31 c. This subsection shall not apply to a
32 confinement feeding operation which stores manure as
33 dry matter, or to an egg washwater storage structure.
34 This subsection shall not apply to a confinement
35 feeding operation, if the operation was constructed
36 prior to the effective date of this Act, or the
37 department issued a permit prior to the effective date
38 of this Act for the construction of an animal feeding
39 operation structure connected to a confinement feeding
40 operation and the construction began prior to the
41 effective date of this Act."

42 27. Page 10, by inserting before line 47 the
43 following:

44 "____. Page 11, line 23, by striking the words
45 "beef cattle" and inserting the following: "bovine".

46 _____. Page 11, line 25, by striking the words
47 "beef cattle" and inserting the following: "bovine"."

48 28. Page 11, by inserting after line 3 the
49 following:

50 "____. Page 12, line 26, by inserting after the

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Page 5

1 word "residences" the following: ", educational
2 institutions, commercial enterprises, bona fide
3 religious institutions, or public use areas, "."
4 29. Page 11, by striking lines 14 through 28.
5 30. Page 11, by striking lines 42 and 43.
6 31. Page 13, by striking lines 8 through 30 and
7 inserting the following:
8 "____. Page 15, by striking lines 30 through 33
9 and inserting the following: "penalty upon a habitual
10 violator which shall not exceed twenty-five thousand
11 dollars for each day the violation continues. The
12 increased penalty may be assessed for each violation
13 committed subsequent to the violation which results in
14 classifying the person as a habitual violator. A
15 person shall be classified as a habitual violator, if
16 the person has committed three or more violations".
17 32. Page 13, by striking lines 35 through 39 and
18 inserting the following: "violation must have been
19 committed on or after January 1, 1995. In addition,
20 each violation must have been referred to the attorney
21 general for legal action under this chapter, and
22 each".
23 33. Page 14, by inserting after line 13 the
24 following:
25 "____. Page 17, line 2, by striking the word "the"
26 and inserting the following: "a".
27 34. Page 14, by striking lines 16 through 18 and
28 inserting the following:
29 "____. Page 17, by striking lines 17 through 19
30 and inserting the following: "penalties and interest
31 earned on civil penalties, arising out of a violation
32 involving an animal feeding operation shall be
33 deposited in the manure".
34 35. Page 14, line 31, by striking the words "of
35 natural resources".
36 36. Page 14, by striking lines 36 through 39 and
37 inserting the following:
38 "____. A person shall not apply manure by spray
39 irrigation equipment, except as provided by rules
40 which shall be adopted by the department pursuant to
41 chapter 17A."
42 37. Page 14, line 42, by striking the figure
43 "455B.202" and inserting the following: "455B.203".
44 38. Page 15, by striking lines 8 and 9 and
45 inserting the following: "animal agriculture
46 consulting organization provided for in this Act."
47 39. Page 15, line 21, by striking the word
48 "livestock" and inserting the following: "animal".
49 40. Page 15, by striking lines 37 through 42.
50 41. Page 15, by inserting after line 44 the

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Page 6

1 following:

2 "_____. Page 20, line 22, by inserting after the
3 word "operation." the following: "The department
4 shall comply with section 455B.103 in conducting an
5 investigation of the premises where the animals are
6 kept.""

7 42. By striking page 15, line 48, through page
8 16, line 3, and inserting the following:

9 "_____. Page 21, by striking lines 8 through 11 and
10 inserting the following: "designated area than
11 provided in section 159.27.""

12 43. Page 16, lines 10 and 11, by striking the
13 words "a permittee" and inserting the following: "an
14 owner".

15 44. Page 16, by inserting after line 23, the
16 following:

17 "_____. "Owner" means the owner of an animal feeding
18 operation, as defined in section 455B.161, which
19 utilizes an animal feeding operation structure."

20 45. Page 16, by striking lines 28 through 30.

21 46. Page 16, lines 31 and 32, by striking the
22 words "a permittee" and inserting the following: "an
23 owner".

24 47. Page 16, line 36, by striking the words "a
25 permittee" and inserting the following: "an owner".

26 48. Page 17, line 28, by striking the word
27 "release" and inserting the following: "agreement".

28 49. Page 17, line 34, by inserting after the word
29 "parties" the following: "agreeing to mediation".

30 50. Page 18, line 7, by striking the figures and
31 word "654B.2 or 654B.4" and inserting the following:
32 "654C.2 or 654C.4".

33 51. By striking page 18, line 13, through page
34 20, line 1, and inserting the following:

35 "_____. By striking page 21, line 12, through page
36 22, line 30, and inserting the following:

37 "Sec. _____. Section 657.1, Code 1995, is amended to
38 read as follows:

39 657.1 NUISANCE -- WHAT CONSTITUTES -- ACTION TO
40 ABATE.

41 Whatever is injurious to health, indecent, or
42 unreasonably offensive to the senses, or an
43 obstruction to the free use of property, so as
44 essentially to unreasonably interfere with the
45 comfortable enjoyment of life or property, is a
46 nuisance, and a civil action by ordinary proceedings
47 may be brought to enjoin and abate the same and to
48 recover damages sustained on account thereof.

49 Sec. _____. Section 657.2, subsection 1, Code 1995,
50 is amended to read as follows:

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Page 7

1 1. The erecting, continuing, or using any building
2 or other place for the exercise of any trade,
3 employment, or manufacture, which, by occasioning
4 noxious exhalations, unreasonably offensive smells, or
5 other annoyances, becomes injurious and dangerous to
6 the health, comfort, or property of individuals or the
7 public.

8 Sec. ____ . NEW SECTION. 657.11 ANIMAL FEEDING
9 OPERATIONS.

10 1. The purpose of this section is to protect
11 animal agricultural producers who manage their
12 operations according to state and federal requirements
13 from the costs of defending nuisance suits, which
14 negatively impact upon Iowa's competitive economic
15 position and discourage persons from entering into
16 animal agricultural production. This section is
17 intended to promote the expansion of animal
18 agriculture in this state by protecting persons
19 engaged in the care and feeding of animals. The
20 general assembly has balanced all competing interests
21 and declares its intent to protect and preserve animal
22 agricultural production operations.

23 2. If a person has received all permits required
24 pursuant to chapter 455B for an animal feeding
25 operation, as defined in section 455B.161, there shall
26 be a rebuttable presumption that an animal feeding
27 operation is not a public or private nuisance under
28 this chapter or under principles of common law, and
29 that the animal feeding operation does not
30 unreasonably interfere with another person's
31 comfortable use and enjoyment of the person's life or
32 property under any other cause of action. The
33 rebuttable presumption also applies to persons who are
34 not required to obtain a permit pursuant to chapter
35 455B for an animal feeding operation as defined in
36 section 455B.161. The rebuttable presumption shall
37 not apply if the injury to a person or damage to
38 property is proximately caused by a failure to comply
39 with a federal statute or regulation or a state
40 statute or rule which applies to the animal feeding
41 operation.

42 3. The rebuttable presumption may be overcome by
43 clear and convincing evidence of both of the
44 following:

45 a. The animal feeding operation unreasonably and
46 continuously interferes with an adjoining landowner's
47 comfortable use and enjoyment of the landowner's life
48 or property.

49 b. The injury or damage is proximately caused by
50 the negligent operation of the animal feeding

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Page 8

1 operation.
 2 For purposes of this section, "continuously" means
 3 more than a majority of the time.
 4 4. The rebuttable presumption created by this
 5 section shall apply regardless of the established date
 6 of operation or expansion of the animal feeding
 7 operation. The rebuttable presumption includes, but
 8 is not limited to, a defense for actions arising out
 9 of the care and feeding of animals; the handling or
 10 transportation of animals; the treatment or disposal
 11 of manure resulting from animals; the transportation
 12 and application of animal manure; and the creation of
 13 noise, odor, dust, or fumes arising from an animal
 14 feeding operation.
 15 5. An animal feeding operation that complies with
 16 the requirements in chapter 455B for animal feeding
 17 operations shall be deemed to meet any common law
 18 requirements regarding the standard of a normal person
 19 living in the locality of the operation.
 20 6. A person who brings a losing cause of action
 21 against a person for whom the rebuttable presumption
 22 created under this section is not rebutted, shall be
 23 liable to the person against whom the action was
 24 brought for all costs and expenses incurred in the
 25 defense of the action, if the court determines that a
 26 claim is frivolous.
 27 7. The rebuttable presumption created in this
 28 section does not apply to an injury to a person or
 29 damages to property caused by the animal feeding
 30 operation before the effective date of this Act."
 31 52. Page 20, by striking lines 2 through 4.
 32 53. Page 20, by inserting before line 5 the
 33 following:
 34 "_____. Page 22, line 31, by striking the words
 35 "CONSULTATION WITH INTERESTED ORGANIZATIONS." and
 36 inserting the following: "ANIMAL AGRICULTURE
 37 CONSULTING ORGANIZATION."
 38 _____. Page 22, line 35, by inserting after the
 39 word "association," the following: "an organization
 40 representing agricultural producers generally,".
 41 _____. Page 22, line 35, by inserting after the
 42 word "university," the following: "the soil
 43 conservation division of the department of agriculture
 44 and land stewardship,".
 45 _____. Page 23, by striking lines 4 through 8 and
 46 inserting the following: "Act, and the Act's
 47 implementation. The department shall consult with"."
 48 54. By renumbering as necessary.

By EDDIE of Buena Vista

H-4145 FILED APRIL 28, 1995

Adopted 4-28-95
(p. 2116)

HOUSE FILE 519

H-4146

- 1 Amend the amendment, H-4145, to Senate amendment,
 2 H-4033, to House File 519, as amended, passed, and
 3 reprinted, by the House, as follows:
 4 1. Page 8, by striking lines 20 through 26 and
 5 inserting the following:
 6 "____. A person who brings a losing cause of action
 7 against a person for whom the rebuttable presumption
 8 arising under this section is not rebutted shall be
 9 liable to the person for all costs and expenses
 10 incurred in the defense of the action. The costs
 11 shall include but are not limited to reasonable
 12 attorney fees, court costs, travel expenses, and other
 13 reasonable expenses incurred in the defense."
 14 2. By renumbering as necessary.

By GREIG of Emmet

H-4146 FILED APRIL 28, 1995

WITHDRAWN

4-28-95 (P. 2114)

HOUSE FILE 519

H-4147

- 1 Amend the amendment, H-4145, to the Senate
 2 amendment, H-4033, to House File 519, as amended,
 3 passed, and reprinted by the House, as follows:
 4 1. By striking page 6, line 36, through page 8,
 5 line 30, and inserting the following: "22, line 30.""

By KOENIGS of Mitchell

H-4147 FILED APRIL 28, 1995

Withdrawn
4-28-95 (P. 2099)

HOUSE FILE 519

H-4149

- 1 Amend the amendment, H-4145, to the Senate
 2 amendment, H-4033, to House File 519, as amended,
 3 passed, and reprinted by the House, as follows:
 4 1. Page 7, by striking lines 32 through 36 and
 5 inserting the following: "property under any other
 6 cause of action. The rebuttable presumption shall".

By KOENIGS of Mitchell

H-4149 FILED APRIL 28, 1995

Lost 4-28-95
(P. 2098)

HOUSE FILE 519

H-4150

- 1 Amend the amendment, H-4145, to the Senate
 2 amendment, H-4033, to House File 519, as amended,
 3 passed, and reprinted by the House, as follows:
 4 1. By striking page 7, line 43, through page 8,
 5 line 3, and inserting the following: "clear and
 6 convincing evidence that the animal feeding operation
 7 unreasonably and continuously interferes with an
 8 adjoining landowner's comfortable use and enjoyment of
 9 the landowner's life or property."

By MORELAND of Wapello

H-4150 FILED APRIL 28, 1995

Withdrawn
4-28-95

HOUSE FILE 519

H-4151

1 Amend the amendment, H-4145, to Senate amendment,
2 H-4033, to House File 519, as amended, passed, and
3 reprinted by the House, as follows:

4 1. Page 1, by inserting after line 25 the
5 following:

6 "_____. Page 3, by inserting after line 3 the
7 following:

8 "_____. Page 1, by striking lines 17 and 18."

9 2. Page 2, by inserting after line 28 the
10 following:

11 "_____. Page 4, by inserting before line 29 the
12 following:

13 "Sec. _____. NEW SECTION. 204.4B INAPPLICABILITY
14 TO CATTLE OPERATIONS.

15 This part shall not apply to a lot, yard, corral,
16 building, or other area in which cattle are confined,
17 fed, and maintained.""

18 3. Page 2, by inserting after line 43 the
19 following:

20 "_____. Page 7, line 33, by inserting after the
21 word "market." the following: "An animal feeding
22 operation does not include a lot, yard, corral,
23 building, or other area in which cattle are confined,
24 fed, and maintained.""

25 4. Page 3, by striking lines 17 through 20 and
26 inserting the following:

27 "_____. Page 8, by striking lines 25 and 26 and
28 inserting the following: "animals other than
29 cattle.""

30 5. By striking page 3, line 28, through page 4,
31 line 5, and inserting the following:

32 "_____. By striking page 8, line 36, through page
33 9, line 13, and inserting the following:

34		"Minimum	
35		separation	
36		distance	Minimum
37	Minimum	in feet	separation
38	separation	for opera-	distance
39	distance	tions hav-	in feet
40	in feet	ing an	for opera-
41	for opera-	animal	tions hav-
42	tions hav-	weight ca-	ing an
43	ing an	capacity of	animal
44	animal	625,000	weight ca-
45	weight ca-	or more	capacity of
46	capacity of	pounds but	1,250,000
47	less than	less than	or more
48	625,000	1,250,000	pounds
49	pounds	pounds	for
50	for	for ani-	animals

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1	animals	mals other	other
2	than	than	than
3	cattle	cattle	cattle
4	Type of structure"		
5	. By striking page 9, line 40, through page		
6	10, line 17, and inserting the following:		
7		"Minimum	
8		separation	
9		distance	
10	Minimum	in feet	Minimum
11	separation	for opera-	separation
12	distance	tions hav-	distance
13	in feet	ing an	in feet
14	for opera-	animal	for opera-
15	tions hav-	weight ca-	tions hav-
16	ing an	capacity of	ing an
17	animal	625,000	animal
18	weight ca-	or more	weight ca-
19	capacity of	pounds but	capacity of
20	less than	less than	1,250,000
21	625,000	1,250,000	or more
22	pounds	pounds	pounds
23	for	for ani-	for
24	animals	mals	animals
25	other	other	other
26	than	than	than
27	cattle	cattle	cattle

28 Type of structure""

29 6. Page 4, lines 12 and 13, by striking the words
30 "or bovine kept in a confinement feeding operation, a"
31 and inserting the following: "; area".

32 7. Page 4, by striking lines 16 through 18 and
33 inserting the following: "or more pounds."

34 8. Page 4, by striking lines 44 through 47 and
35 inserting the following:

36 "____. Page 11, by inserting before line 29 the
37 following:

38 "____. Page 13, by inserting after line 2 the
39 following:

40 "Sec. ____ . NEW SECTION. 455B.167 INAPPLICABILITY
41 TO CATTLE OPERATIONS.

42 This part shall not apply to a lot, yard, corral,
43 building, or other area in which cattle are confined,
44 fed, and maintained."""

45 9. Page 5, by inserting before line 5 the
46 following:

47 "____. Page 11, line 32, by inserting after the
48 figure "455B.161." the following: "An animal feeding
49 operation does not include a lot, yard, corral,
50 building, or other area in which cattle are confined,

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Page 3

- 1 fed, and maintained.""
 2 10. Page 6, by inserting after line 11 the
 3 following:
 4 "____. Page 16, by inserting before line 4 the
 5 following:
 6 "____. Page 21, by inserting before line 12 the
 7 following:
 8 "Sec. ____ . NEW SECTION. 455B.205 INAPPLICABILITY
 9 TO CATTLE OPERATIONS.
 10 This part shall not apply to a lot, yard, corral,
 11 building, or other area in which cattle are confined,
 12 fed, and maintained.""
 13 11. Page 8, by inserting before line 38 the
 14 following:
 15 "____. Page 22, line 33, by striking the words
 16 "the Iowa cattlemen's association,."
 17 12. By renumbering and correcting internal
 18 references.

By GREIG of Emmet

H-4151 FILED APRIL 28, 1995

Lost 4/28/95 (p.2096)

HOUSE FILE 519

H-4152

- 1 Amend the amendment, H-4145, to Senate amendment H-
 2 4033, to House File 519, as amended, passed, and
 3 reprinted by the House, as follows:
 4 1. Page 3, by inserting after the line 27 the
 5 following:
 6 "____. Page 8, by striking lines 27 through 33."
 7 2. Page 3, by inserting after line 41 the
 8 following:
 9 "____. Page 9, by striking lines 31 and 32."
 10 3. Page 4, by striking lines 6 through 41 and
 11 inserting the following:
 12 "____. Page 10, by striking lines 20 through 46."
 By GREIG of Emmet

H-4152 FILED APRIL 28, 1995

*Lost 4/28/95
(p.2097)*

HOUSE FILE 519

H-4153

- 1 Amend the amendment, H-4145, to the Senate
 2 amendment, H-4033, to House File 519, as amended,
 3 passed, and reprinted by the House, as follows:
 4 1. By striking page 6, line 33, through page 8,
 5 line 30.

By KOENIGS of Mitchell

H-4153 FILED APRIL 28, 1995

*Lost
4/28/95
(p.2112)*

HOUSE FILE 519

H-4154

1 Amend the Senate amendment, H-4033, to House File
 2 519, as amended, passed, and reprinted by the House,
 3 as follows:
 4 1. Page 11, line 3, by inserting after the word
 5 "operation." the following: "However, unless a waiver
 6 is executed by the affected parties pursuant to this
 7 section, an animal feeding operation structure which
 8 is connected to a small animal feeding operation shall
 9 be located at least seven hundred fifty feet from a
 10 bed and breakfast home as defined in section 137B.2, a
 11 religious institution, a clubhouse which is part of a
 12 golf course, the borders of an unincorporated city, or
 13 a rural residential subdivision.""

By MUNDIE of Webster

H-4154 FILED APRIL 28, 1995

4-28-95

HOUSE FILE 519

H-4156

1 Amend the amendment, H-4145, to the Senate
 2 amendment, H-4033, to House File 519, as amended,
 3 passed, and reprinted by the House, as follows:
 4 1. By striking page 7, line 43, through page 8,
 5 line 3, and inserting the following: "clear and
 6 convincing evidence that the animal feeding operation
 7 unreasonably and continuously interferes with a
 8 person's comfortable use and enjoyment of the person's
 9 life or property."

By MORELAND of Wapello

H-4156 FILED APRIL 28, 1995

*Lost 4/28/95
p. 2099*

HOUSE FILE 519

H-4157

1 Amend the amendment, H-4145, to the Senate
 2 amendment, H-4033, to House File 519, as amended,
 3 passed, and reprinted by the House, as follows:
 4 1. Page 5, by striking lines 6 through 22 and
 5 inserting the following:
 6 "___". Page 13, by striking lines 8 through 40 and
 7 inserting the following:
 8 "___". Page 15, by striking lines 30 through 35
 9 and inserting the following: "penalty upon a habitual
 10 violator which shall not exceed twenty-five thousand
 11 dollars for each day the violation continues. A
 12 person shall be classified as a habitual violator, if
 13 the person has committed three or more violations as
 14 described in this subsection prior to or after the
 15 effective date of this Act, and was subject to the
 16 assessment"."

By MUNDIE of Webster

H-4157 FILED APRIL 28, 1995

*Lost 4/28/95
(p. 2098)*

HOUSE FILE 519

H-4161

- 1 Amend the Senate amendment, H-4033, to House File
- 2 519, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 4, by striking lines 31 through 37.

By RUNNING of Linn
NELSON of Marshall

H-4161 FILED APRIL 28, 1995

WITHDRAWN

4-28-95

HOUSE FILE 519

H-4162

- 1 Amend the Senate amendment, H-4033, to House File
- 2 519, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 8, line 24, by striking the word "two"
- 5 and inserting the following: "one".
- 6 2. Page 8, line 25, by striking the word "four"
- 7 and inserting the following: "two".

By WEIGEL of Chickasaw

H-4162 FILED APRIL 28, 1995

WITHDRAWN

4-28-95

HOUSE FILE 519

H-4165

- 1 Amend the Senate amendment, H-4033, to House File
- 2 519, as amended, passed, and reprinted by the House,
- 3 as follows:
- 4 1. Page 20, by striking lines 8 through 16.

By WEIGEL of Chickasaw

H-4165 FILED APRIL 28, 1995

WITHDRAWN

4-28-95 (P. 2115)

HOUSE FILE 519

H-4166

- 1 Amend the amendment, H-4145, to Senate amendment,
- 2 H-4033, to House File 519, as amended, passed, and
- 3 reprinted by the House, as follows:
- 4 1. Page 7, by striking lines 23 through 36 and
- 5 inserting the following:
- 6 " ____ . If an animal feeding operation is a small
- 7 animal feeding operation as defined in section
- 8 455B.161, there shall be a rebuttable presumption that
- 9 the small animal feeding operation is not a public or
- 10 private nuisance under this chapter or under
- 11 principles of common law, and that the small animal
- 12 feeding operation does not unreasonably interfere with
- 13 another person's comfortable use and enjoyment of the
- 14 person's life or property under any other cause of
- 15 action. The rebuttable presumption shall".

By KREIMAN of Davis

H-4166 FILED APRIL 28, 1995

Lost
4/28/95

(P. 2113)

HOUSE FILE 519

H-4170

1 Amend the amendment, H-4145, to the Senate
 2 amendment, H-4033, to House File 519, as amended,
 3 passed, and reprinted by the House, as follows:
 4 1. Page 4, by striking lines 13 through 18 and
 5 inserting the following: "a swine farrow-to-finish
 6 operation having an animal weight capacity of two
 7 million five hundred thousand or more pounds."

By WEIGEL of Chickasaw

H-4170 FILED APRIL 28, 1995

*Lost 4-28-95**(p. 2114)*

HOUSE FILE 519

H-4171

1 Amend the amendment, H-4145, to the Senate
 2 amendment, H-4033, to House File 519, as amended,
 3 passed, and reprinted by the House, as follows:
 4 1. Page 5, by striking line 5.
 5 2. Page 5, line 6, by striking the figure "8" and
 6 inserting the following: "20".

By WEIGEL of Chickasaw

H-4171 FILED APRIL 28, 1995

*Lost 4-28-95**(p. 2114)*

HOUSE FILE 519

H-4172

1 Amend Senate amendment, H-4033, to House File 519,
 2 as amended, passed, and reprinted by the House, as
 3 follows:
 4 1. By striking page 10, line 50, through page 11,
 5 line 3, and inserting the following:
 6 "____. Page 12, by striking lines 1 through 4."
 7 2. By renumbering as necessary.

By MUNDIE of Webster

H-4172 FILED APRIL 28, 1995

WITHDRAWN

4-28-95

HOUSE FILE 519

H-4173

1 Amend the amendment, H-4145, to the Senate
 2 amendment, H-4033, to House File 519, as amended,
 3 passed, and reprinted by the House, as follows:
 4 1. Page 5, by striking line 5.
 5 2. Page 5, line 6, by striking the figure "8" and
 6 inserting the following: "20".
 7 3. Page 5, line 41, by inserting after the figure
 8 "17A." the following: "A person shall not apply
 9 manure by use of spray irrigation equipment between
 10 May 15 and September 15 of each year."

By WEIGEL of Chickasaw

H-4173 FILED APRIL 28, 1995

WITHDRAWN

*4-28-95**(p. 2114)*

HOUSE FILE 519

H-4174

1 Amend the amendment, H-4145, to Senate amendment,
2 H-4033, to House File 519, as amended, passed, and
3 reprinted by the House, as follows:

4 1. Page 7, line 30, by inserting after the word
5 "unreasonably" the following: "and continuously".

6 2. Page 7, line 46, by striking the words "an
7 adjoining landowner's" and inserting the following:
8 "another person's".

9 3. Page 7, line 47, by striking the words "the
10 landowner's" and inserting the following: "the
11 person's".

12 4. Page 8, by striking lines 2 and 3.

By MORELAND of Wapello

H-4174 FILED APRIL 28, 1995

Int 4/28/95 (p. 2115)

HOUSE FILE 519

H-4175

1 Amend the amendment, H-4145, to the Senate
2 amendment, H-4033, to House File 519, as amended,
3 passed, and reprinted by the House, as follows:

4 1. Page 4, line 17, by striking the word "four"
5 and inserting the following: "six".

By GREIG of Emmet

H-4175 FILED APRIL 28, 1995

*Adopted
4-28-95
(p. 2115)*

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 519

S-3655

1 Amend the Senate amendment, H-4033, to House File
2 519, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by striking lines 10 through 31 and
5 inserting the following: "in chapters 654A and, 654B,
6 and 654C. ~~The contract shall be awarded to the~~
7 ~~organization by July 17, 1990.~~ The contract may be
8 terminated by the coordinator upon written notice and
9 for good cause. The organization awarded the contract
10 is designated as the farm mediation service for the
11 duration of the contract. The organization may,".

12 2. By striking page 1, line 36, through page 2,
13 line 35, and inserting the following:

14 "Sec. ____ . Section 13.15, unnumbered paragraph 1,
15 Code 1995, is amended to read as follows:

16 The farm mediation service shall recommend rules to
17 the farm assistance program coordinator. The
18 coordinator shall adopt rules pursuant to chapter 17A
19 to set the compensation of mediators and to implement
20 this subchapter and chapters 654A, and 654B, and
21 654C."

22 3. Page 2, line 49, by striking the word "pond,"
23 and inserting the following: "pond".

24 4. Page 3, line 1, by striking the word "outlet"
25 and inserting the following: "inlet".

26 5. Page 3, by inserting after line 10 the
27 following:

28 " ____ . Page 2, line 8, by inserting after the word
29 "of" the following: "a manure storage structure,
30 or"."

31 6. Page 3, by striking lines 11 through 18 and
32 inserting the following:

33 " ____ . Page 2, by striking lines 25 through 30 and
34 inserting the following: "to chapter 455B, against
35 permittees; moneys paid as a settlement involving an
36 enforcement action for a civil penalty subject to
37 assessment and collection against permittees by the
38 department of natural resources pursuant to chapter
39 455B; interest, property, and securities"."

40 7. Page 3, by striking lines 22 and 23 and
41 inserting the following:

42 " ____ . Page 3, by striking lines 4 and 5 and
43 inserting the following: "fiscal year, the department
44 shall not use more than one percent of the total
45 amount which is available in the fund or ten thousand
46 dollars, whichever is less, to pay"."

47 8. Page 3, line 30, by striking the words "animal
48 feeding" and inserting the following: "confinement
49 feeding".

50 9. Page 3, line 39, by striking the words "animal

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Page 2

- 1 feeding" and inserting the following: "confinement
2 feeding".
- 3 10. Page 3, line 50, by striking the words
4 "animal feeding" and inserting the following:
5 "confinement feeding".
- 6 11. Page 4, by inserting after line 18 the
7 following:
8 "_____. Page 5, line 25, by inserting after the
9 word "fund" the following: "to pay the claim by the
10 county"."
- 11 12. Page 4, line 21, by striking the words
12 "MANURE REMOVAL" and inserting the following: "SITE
13 CLEANUP".
- 14 13. Page 4, by striking lines 25 and 26 and
15 inserting the following: "pursuant to section 446.19,
16 may cleanup the site, including removing and disposing
17 of manure at any time. The county may seek
18 reimbursement including by bringing an action for
19 the".
- 20 14. Page 4, by striking line 28 and inserting the
21 following: "abandoning the real estate.
22 A person cleaning up a site located on real estate
23 acquired by a county may dispose of any building or
24 equipment used in the confinement feeding operation
25 located on the land according to rules adopted by the
26 department of natural resources pursuant to chapter
27 17A, which apply to the disposal of farm buildings or
28 equipment by an individual or business organization.""
- 29 15. By striking page 4, line 38, through page 6,
30 line 46.
- 31 16. Page 7, by striking lines 3 through 5 and
32 inserting the following: "penalties, arising out of
33 violations committed by animal feeding operations
34 under division II,".
- 35 17. Page 7, by striking lines 9 through 11 and
36 inserting the following: "the penalties arising out
37 of violations committed by animal feeding operations
38 under division III, which may be".
- 39 18. Page 7, line 23, by inserting after the word
40 "shall" the following: "not apply to an enforcement
41 action in which the department enforces a civil
42 penalty of three thousand dollars or less. This
43 section shall also".
- 44 19. Page 7, by striking lines 41 and 42 and
45 inserting the following: "and which is connected to
46 electric, water, and sewer systems. A".
- 47 20. Page 7, by inserting before line 45 the
48 following:
49 "_____. Page 8, by inserting after line 17 the
50 following:

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Page 3

1 "____". "Covered" means organic or inorganic
 2 material placed upon an animal feeding operation
 3 structure used to store manure as provided by rules
 4 adopted by the department after receiving
 5 recommendations which shall be submitted to the
 6 department by the college of agriculture at Iowa state
 7 university."

8 21. Page 8, by striking lines 10 through 14 and
 9 inserting the following:

10 "____". "Public use area" means that portion of
 11 land owned by the United States, the state, or a
 12 political subdivision with facilities which attract
 13 the public to congregate and remain in the area for
 14 significant periods of time, as provided by rules
 15 which shall be adopted by the department pursuant to
 16 chapter 17A."

17 22. Page 8, line 25, by striking the words "beef
 18 cattle" and inserting the following: "bovine".

19 23. Page 8, by striking line 26 and inserting the
 20 following: "thousand pounds or less for bovine."

21 _____. "Swine farrow-to-finish operation" means a
 22 confinement feeding operation in which porcine are
 23 produced and in which a primary portion of the phases
 24 of the production cycle are conducted at one
 25 confinement feeding operation. Phases of the
 26 production cycle include, but are not limited to,
 27 gestation, farrowing, growing, and finishing."

28 24. Page 9, by striking lines 1 through 13 and
 29 inserting the following:

30	"pounds	pounds	pounds
31	for	for ani-	for
32	animals	mals other	ani-
33	other	than	mals
34	than	bovine, or	other
35	bovine,	1,600,000	than
36	or	or more	bovine,
37	less	pounds but	or
38	than	less than	4,000,000
39	1,600,000	4,000,000	or more
40	pounds	pounds	pounds
41	Type of structure	for bovine	for bovine".

42 25. Page 10, by striking lines 5 through 17 and
 43 inserting the following:

44	"pounds	pounds	pounds
45	for	for ani-	for
46	animals	mals other	ani-
47	other	than	mals
48	than	bovine, or	other
49	bovine,	1,600,000	than
50	or	or more	bovine,

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Page 4

1		less	pounds but	or
2		than	less than	4,000,000
3		1,600,000	4,000,000	or more
4		pounds	pounds	pounds
5	Type of structure	for bovine	for bovine	for bovine".

6 26. Page 10, by striking lines 22 through 46 and
7 inserting the following:

8 "2. a. As used in this subsection, a "qualified
9 confinement feeding operation" means a confinement
10 feeding operation having an animal weight capacity of
11 two million or more pounds for animals other than
12 animals kept in a swine farrow-to-finish operation or
13 bovine kept in a confinement feeding operation; a
14 swine farrow-to-finish operation having an animal
15 weight capacity of two million five hundred thousand
16 or more pounds; or a confinement feeding operation
17 having an animal weight capacity of six million or
18 more pounds for bovine.

19 b. A qualified confinement feeding operation shall
20 only use an animal feeding operation structure which
21 employs bacterial action which is maintained by the
22 utilization of air or oxygen, and which shall include
23 aeration equipment. The type and degree of treatment
24 technology required to be installed shall be based on
25 the size of the confinement feeding operation,
26 according to rules adopted by the department. The
27 equipment shall be installed, operated, and maintained
28 in accordance with the manufacturer's instructions and
29 requirements of rules adopted pursuant to this
30 subsection.

31 c. This subsection shall not apply to a
32 confinement feeding operation which stores manure as
33 dry matter, or to an egg washwater storage structure.
34 This subsection shall not apply to a confinement
35 feeding operation, if the operation was constructed
36 prior to the effective date of this Act, or the
37 department issued a permit prior to the effective date
38 of this Act for the construction of an animal feeding
39 operation structure connected to a confinement feeding
40 operation and the construction began prior to the
41 effective date of this Act."

42 27. Page 10, by inserting before line 47 the
43 following:

44 "____. Page 11, line 23, by striking the words
45 "beef cattle" and inserting the following: "bovine".

46 28. Page 11, line 25, by striking the words "beef
47 cattle" and inserting the following: "bovine".

48 29. Page 11, by inserting after line 3 the
49 following:

50 "____. Page 12, line 26, by inserting after the

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Page 5

- 1 word "residences" the following: ", educational
2 institutions, commercial enterprises, bona fide
3 religious institutions, or public use areas, "."
4 30. Page 11, by striking lines 14 through 28.
5 31. Page 11, by striking lines 42 and 43.
6 32. Page 13, by striking lines 8 through 30 and
7 inserting the following:
8 "____. Page 15, by striking lines 30 through 33
9 and inserting the following: "penalty upon a habitual
10 violator which shall not exceed twenty-five thousand
11 dollars for each day the violation continues. The
12 increased penalty may be assessed for each violation
13 committed subsequent to the violation which results in
14 classifying the person as a habitual violator. A
15 person shall be classified as a habitual violator, if
16 the person has committed three or more violations".
17 33. Page 13, by striking lines 35 through 39 and
18 inserting the following: "violation must have been
19 committed on or after January 1, 1995. In addition,
20 each violation must have been referred to the attorney
21 general for legal action under this chapter, and
22 each".
23 34. Page 14, by inserting after line 13 the
24 following:
25 "____. Page 17, line 2, by striking the word "the"
26 and inserting the following: "a".
27 35. Page 14, by striking lines 16 through 18 and
28 inserting the following:
29 "____. Page 17, by striking lines 17 through 19
30 and inserting the following: "penalties and interest
31 earned on civil penalties, arising out of a violation
32 involving an animal feeding operation shall be
33 deposited in the manure".
34 36. Page 14, line 31, by striking the words "of
35 natural resources".
36 37. Page 14, by striking lines 36 through 39 and
37 inserting the following:
38 ""____. A person shall not apply manure by spray
39 irrigation equipment, except as provided by rules
40 which shall be adopted by the department pursuant to
41 chapter 17A."
42 38. Page 14, line 42, by striking the figure
43 "455B.202" and inserting the following: "455B.203".
44 39. Page 15, by striking lines 8 and 9 and
45 inserting the following: "animal agriculture
46 consulting organization provided for in this Act."
47 40. Page 15, line 21, by striking the word
48 "livestock" and inserting the following: "animal".
49 41. Page 15, by striking lines 37 through 42.
50 42. Page 15, by inserting after line 44 the

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Page 6

1 following:

2 "____. Page 20, line 22, by inserting after the
3 word "operation." the following: "The department
4 shall comply with section 455B.103 in conducting an
5 investigation of the premises where the animals are
6 kept.""

7 43. By striking page 15, line 48, through page
8 16, line 3, and inserting the following:

9 "____. Page 21, by striking lines 8 through 11 and
10 inserting the following: "designated area than
11 provided in section 159.27.""

12 44. Page 16, lines 10 and 11, by striking the
13 words "a permittee" and inserting the following: "an
14 owner".

15 45. Page 16, by inserting after line 23, the
16 following:

17 "____. "Owner" means the owner of an animal feeding
18 operation, as defined in section 455B.161, which
19 utilizes an animal feeding operation structure."

20 46. Page 16, by striking lines 28 through 30.

21 47. Page 16, lines 31 and 32, by striking the
22 words "a permittee" and inserting the following: "an
23 owner".

24 48. Page 16, line 36, by striking the words "a
25 permittee" and inserting the following: "an owner".

26 49. Page 17, line 28, by striking the word
27 "release" and inserting the following: "agreement".

28 50. Page 17, line 34, by inserting after the word
29 "parties" the following: "agreeing to mediation".

30 51. Page 18, line 7, by striking the figures and
31 word "654B.2 or 654B.4" and inserting the following:
32 "654C.2 or 654C.4".

33 52. By striking page 18, line 13, through page
34 20, line 1, and inserting the following:

35 "____. By striking page 21, line 12, through page
36 22, line 30, and inserting the following:

37 "Sec. _____. Section 657.1, Code 1995, is amended to
38 read as follows:

39 657.1 NUISANCE -- WHAT CONSTITUTES -- ACTION TO
40 ABATE.

41 Whatever is injurious to health, indecent, or
42 unreasonably offensive to the senses, or an
43 obstruction to the free use of property, so as
44 essentially to unreasonably interfere with the
45 comfortable enjoyment of life or property, is a
46 nuisance, and a civil action by ordinary proceedings
47 may be brought to enjoin and abate the same and to
48 recover damages sustained on account thereof.

49 Sec. _____. Section 657.2, subsection 1, Code 1995,
50 is amended to read as follows:

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Page 7

1 1. The erecting, continuing, or using any building
2 or other place for the exercise of any trade,
3 employment, or manufacture, which, by occasioning
4 noxious exhalations, unreasonably offensive smells, or
5 other annoyances, becomes injurious and dangerous to
6 the health, comfort, or property of individuals or the
7 public.

8 Sec. ____ . NEW SECTION. 657.11 ANIMAL FEEDING
9 OPERATIONS.

10 1. The purpose of this section is to protect
11 animal agricultural producers who manage their
12 operations according to state and federal requirements
13 from the costs of defending nuisance suits, which
14 negatively impact upon Iowa's competitive economic
15 position and discourage persons from entering into
16 animal agricultural production. This section is
17 intended to promote the expansion of animal
18 agriculture in this state by protecting persons
19 engaged in the care and feeding of animals. The
20 general assembly has balanced all competing interests
21 and declares its intent to protect and preserve animal
22 agricultural production operations.

23 2. If a person has received all permits required
24 pursuant to chapter 455B for an animal feeding
25 operation, as defined in section 455B.161, there shall
26 be a rebuttable presumption that an animal feeding
27 operation is not a public or private nuisance under
28 this chapter or under principles of common law, and
29 that the animal feeding operation does not
30 unreasonably and continuously interfere with another
31 person's comfortable use and enjoyment of the person's
32 life or property under any other cause of action. The
33 rebuttable presumption also applies to persons who are
34 not required to obtain a permit pursuant to chapter
35 455B for an animal feeding operation as defined in
36 section 455B.161. The rebuttable presumption shall
37 not apply if the injury to a person or damage to
38 property is proximately caused by a failure to comply
39 with a federal statute or regulation or a state
40 statute or rule which applies to the animal feeding
41 operation.

42 3. The rebuttable presumption may be overcome by
43 clear and convincing evidence of both of the
44 following:

45 a. The animal feeding operation unreasonably and
46 continuously interferes with another person's
47 comfortable use and enjoyment of the person's life or
48 property.

49 b. The injury or damage is proximately caused by
50 the negligent operation of the animal feeding

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Page 8

1 operation.

2 4. The rebuttable presumption created by this
3 section shall apply regardless of the established date
4 of operation or expansion of the animal feeding
5 operation. The rebuttable presumption includes, but
6 is not limited to, a defense for actions arising out
7 of the care and feeding of animals; the handling or
8 transportation of animals; the treatment or disposal
9 of manure resulting from animals; the transportation
10 and application of animal manure; and the creation of
11 noise, odor, dust, or fumes arising from an animal
12 feeding operation.

13 5. An animal feeding operation that complies with
14 the requirements in chapter 455B for animal feeding
15 operations shall be deemed to meet any common law
16 requirements regarding the standard of a normal person
17 living in the locality of the operation.

18 6. A person who brings a losing cause of action
19 against a person for whom the rebuttable presumption
20 created under this section is not rebutted, shall be
21 liable to the person against whom the action was
22 brought for all costs and expenses incurred in the
23 defense of the action, if the court determines that a
24 claim is frivolous.

25 7. The rebuttable presumption created in this
26 section does not apply to an injury to a person or
27 damages to property caused by the animal feeding
28 operation before the effective date of this Act."

29 53. Page 20, by striking lines 2 through 4.

30 54. Page 20, by inserting before line 5 the
31 following:

32 " . Page 22, line 31, by striking the words
33 "CONSULTATION WITH INTERESTED ORGANIZATIONS." and
34 inserting the following: "ANIMAL AGRICULTURE
35 CONSULTING ORGANIZATION."

36 55. Page 22, line 35, by inserting after the word
37 "association," the following: "an organization
38 representing agricultural producers generally,".

39 56. Page 22, line 35, by inserting after the word
40 "university," the following: "the soil conservation
41 division of the department of agriculture and land
42 stewardship,".

43 57. Page 23, by striking lines 4 through 8 and
44 inserting the following: "Act, and the Act's
45 implementation. The department shall consult with"."

46 58. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3655 FILED APRIL 28, 1995
CONCURRED

(P.1532)

Eddie Ch.

REVISED

HSB 50.1

*Meyer
Greig
Briener
Koenigs
Mertv
Mundie*

Agriculture

Succeeded By

HOUSE FILE 519

BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON EDDIE)

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act providing for the regulation of animal feeding operations,
2 providing for fees, the expenditure of moneys, and providing
3 for penalties.

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

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1 Section 1. NEW SECTION. 204.1 DEFINITIONS.

2 1. "Animal unit" means a unit of measurement used to
3 determine the animal capacity of an animal feeding operation,
4 based upon the product of multiplying the number of animals of
5 each species by the following:

6	a. Slaughter and feeder cattle	1.0
7	b. Mature dairy cattle	1.4
8	c. Butcher and breeding swine, over fifty-five pounds	0.4
9	d. Sheep or lambs	0.1
10	e. Horses	2.0
11	f. Turkeys	0.018
12	g. Broiler or layer chickens	0.01

13 2. "Annual fee" means the fee provided in section 204.3.

14 3. "Confinement feeding operation" means a confinement
15 feeding operation as defined in section 455B.160.

16 4. "Construction fee" means the fee provided in section
17 204.3.

18 5. "Department" means the department of agriculture and
19 land stewardship.

20 6. "Fund" means the manure storage indemnity fund created
21 in section 204.2.

22 7. "Manure" means animal excreta or other commonly
23 associated wastes of animals, including but not limited to
24 bedding, litter, or feed losses.

25 8. "Manure storage structure" means a structure used to
26 store manure as part of a confinement feeding operation
27 required to be constructed pursuant to a permit issued by the
28 department of natural resources pursuant to section 455B.173.

29 9. "Permittee" means a person required to obtain a permit
30 for the construction of a confinement feeding operation, if a
31 manure storage structure is connected to the confinement
32 feeding operation.

33 Sec. 2. NEW SECTION. 204.2 MANURE STORAGE INDEMNITY
34 FUND.

35 1. A manure storage indemnity fund is created as a

1 separate fund in the state treasury under the control of the
2 department. The general fund of the state is not liable for
3 claims presented against the fund.

4 2. The fund consists of moneys from construction fees and
5 annual fees remitted by manure storage permittees as provided
6 in section 204.3; delinquency penalties; sums collected on
7 behalf of the fund by the department through legal action or
8 settlement; moneys required to be repaid to the department by
9 a political subdivision pursuant to this chapter; civil
10 penalties assessed and collected by the department of natural
11 resources pursuant to section 455B.191, against persons
12 required to obtain a permit for the construction of a
13 confinement feeding operation; moneys paid as a settlement
14 involving an enforcement action for a civil penalty subject to
15 assessment and collection by the department of natural
16 resources pursuant to section 455B.191; interest, property,
17 and securities acquired through the use of moneys in the fund;
18 or moneys contributed to the fund from other sources.

19 3. The moneys collected under this section and deposited
20 in the fund shall be used exclusively to indemnify a political
21 subdivision for expenses related to removing and disposing of
22 manure from a manure storage structure, and to pay the
23 administrative costs of this chapter. The moneys in the fund
24 are appropriated to and for this purpose. Moneys in the fund
25 shall not be subject to appropriation for any other purpose.

26 4. The treasurer of state shall act as custodian of the
27 fund and disburse amounts contained in the fund as directed by
28 the department. The treasurer of state is authorized to
29 invest the moneys deposited in the fund. The income from such
30 investment shall be credited to and deposited in the fund.
31 Notwithstanding section 8.33, moneys in the fund are not
32 subject to reversion to the general fund of the state. The
33 fund shall be administered by the department which shall make
34 expenditures from the fund consistent with the purposes set
35 out in this chapter. The moneys in the fund shall be

1 disbursed upon warrants drawn by the director of revenue and
2 finance pursuant to the order of the department. The fiscal
3 year of the fund begins July 1. The finances of the fund
4 shall be calculated on an accrual basis in accordance with
5 generally accepted accounting principles. The auditor of
6 state shall regularly perform audits of the fund.

7 Sec. 3. NEW SECTION. 204.3 FEES.

8 1. The department of natural resources shall deposit into
9 the fund fees collected for the issuance of permits for the
10 construction of confinement feeding operations as provided in
11 section 455B.173.

12 2. a. A permittee shall pay an annual fee to the
13 department of agriculture and land stewardship which shall be
14 remitted to the department as provided in rules adopted by the
15 department. The department shall establish four payment dates
16 each year beginning July 1 and which shall be three months
17 apart. A permittee who has been issued a construction permit
18 for a confinement feeding operation prior to the effective
19 date of this Act shall pay the annual fee on a payment date
20 specified by the department, but not earlier than the second
21 payment date following the effective date of this Act. A
22 permittee who has received a construction permit on or after
23 the effective date of this Act shall make the full annual
24 payment on the second payment date after the construction
25 permit is issued by the department. A permittee shall pay the
26 annual fee to the department on each anniversary of the
27 payment date. The department shall provide notice in writing
28 to a permittee within one month prior to the permittee's
29 payment date.

30 b. The annual fee shall equal five cents per animal unit
31 of capacity for confinement feeding operations housing poultry
32 and twelve and one-half cents per animal unit of capacity for
33 confinement feeding operations housing other species of
34 animals. The fee shall not be paid, if the confinement
35 feeding operation does not house any animals or store manure

1 for three consecutive months prior to the permittee's payment
2 date. If the animal feeding operation again houses animals or
3 stores manure, the permittee shall pay the department by the
4 next payment date and subsequently on each anniversary of that
5 payment date. The permittee shall notify the department if a
6 fee is not owing within one month prior to the permittee's
7 payment date.

8 c. A permittee is delinquent if the permittee fails to
9 submit the full fee when due, or if upon examination, an
10 underpayment of the fee is found by the department. The
11 permittee is subject to a penalty of ten dollars or an amount
12 equal to the amount of the deficiency for each day the
13 permittee is delinquent, whichever is less.

14 3. If, on March 1, the moneys of the fund, less the
15 department's estimate of the costs to the fund for pending or
16 unsettled claims, exceed five hundred thousand dollars, the
17 annual fee payable pursuant to subsection 2 shall be waived.
18 The department may reinstate the annual fee if the moneys in
19 the fund, less the department's estimate of costs to the fund
20 for pending or unsettled claims, are less than five hundred
21 thousand dollars. The department shall reinstate the annual
22 fee if moneys in the fund, less the department's estimate of
23 the costs to the fund for pending or unsettled claims, are
24 less than four hundred fifty thousand dollars. A permittee
25 who does not make payment on or after July 1 of each fiscal
26 year shall pay the fee on the next payment date, but not
27 before one month prior to the next payment date. However, a
28 delayed payment shall not change a permittee's payment date
29 anniversary.

30 4. The department of natural resources shall provide the
31 department of agriculture and land stewardship the most
32 current available information regarding the names and
33 addresses of permittees, including the capacity of the
34 confinement feeding operations subject to the permit. The
35 information shall be delivered every three months according to

1 procedures established by the department.

2 Sec. 4. NEW SECTION. 204.4 COLLECTION.

3 The department, in cooperation with the attorney general,
4 may bring an action in court in order to collect fees required
5 to be paid as provided in section 204.3.

6 Sec. 5. NEW SECTION. 204.5 CLAIMS AGAINST THE FUND.

7 1. A county that has acquired real estate containing a
8 manure storage structure following nonpayment of taxes
9 pursuant to section 446.19, may make a claim against the fund
10 to pay the costs of removing and disposing of the manure
11 located in a manure storage structure on the real estate.
12 Each claim shall include a bid by a qualified person, other
13 than a governmental entity, to remove and dispose of the
14 manure for a fixed amount specified in the bid.

15 2. The department shall determine if a claim is eligible
16 to be satisfied under this section, and do one of the
17 following:

18 a. Pay the fixed amount specified in the bid submitted by
19 the county upon completion of the work.

20 b. Obtain a lower fixed amount bid for the work from
21 another qualified person, other than a governmental entity,
22 and pay the fixed amount in this bid upon completion of the
23 work. The department is not required to comply with section
24 18.6 in implementing this section.

25 3. Upon a determination that the claim is eligible for
26 payment, the department shall provide for payment of fifty
27 percent of the claim, as provided in this section, but not
28 more than one hundred fifty thousand dollars per claimant. If
29 at any time the department determines that there are
30 insufficient moneys to make payment of all claims, the
31 department shall pay claims according to the date that the
32 claims are received by the department. To the extent that a
33 claim cannot be fully satisfied, the department shall order
34 that the unpaid portion of the payment be deferred until the
35 claim can be satisfied. However, the department shall not

1 satisfy claims from moneys dedicated for the administration of
2 the fund.

3 4. In the event of payment of a claim under this section,
4 the fund is subrogated to the extent of the amount of the
5 payment to all rights, powers, privileges, and remedies of the
6 political subdivision regarding the payment amount. The
7 political subdivision shall render all necessary assistance to
8 the department in securing the rights granted in this section.
9 A case or proceeding initiated by a political subdivision
10 which involves a claim submitted to the department shall not
11 be compromised or settled without the consent of the
12 department. A political subdivision shall not be eligible to
13 submit a claim to the department if the political subdivision
14 has compromised or settled a case or proceeding, without the
15 consent of the department.

16 5. If upon disposition of the real estate the county
17 realizes an amount which exceeds the total amount of the
18 delinquent real estate taxes, the county shall forward to the
19 fund any excess amount which is not more than the amount
20 expended by the fund.

21 6. The department of agriculture and land stewardship
22 shall adopt administrative rules pursuant to chapter 17A to
23 administer this section.

24 Sec. 6. NEW SECTION. 204.6 NO STATE OBLIGATION.

25 This chapter does not imply any guarantee or obligation on
26 the part of this state, or any of its agencies, employees, or
27 officials, either elective or appointive, with respect to any
28 agreement or undertaking to which this chapter relates.

29 Sec. 7. NEW SECTION. 455A.7A ORGANIC NUTRIENT MANAGEMENT
30 ADVISORY COUNCIL.

31 1. An organic nutrient management advisory council is
32 established. Sections 69.16 and 69.16A apply to the
33 composition of the council. Voting members shall be entitled
34 to receive per diem at a rate provided in section 7E.6 and
35 actual expenses. The council shall consist of the following:

1 a. Seven persons appointed as voting members by the
2 governor, after consultation with the secretary of
3 agriculture, and subject to confirmation by the senate, as
4 provided in section 2.32. The persons shall include all of
5 the following:

6 (1) Four persons actively engaged in agricultural
7 production. Each person must be a member of a commodity
8 organization or association which represents agricultural
9 producers in this state.

10 (2) One person actively engaged in agricultural production
11 who is a member of an organization or association which
12 represents agricultural producers generally.

13 (3) One person who is interested in environmental quality
14 issues. The person must be a member of an association or
15 organization interested in the protection or preservation of
16 the natural environment.

17 (4) One person who is involved in agribusiness and who is
18 a member of an organization or association which represents
19 agribusiness generally.

20 b. Four members of the general assembly serving as voting
21 members who are two state senators, one appointed by the
22 president of the senate, after consultation with the majority
23 leader of the senate, and one appointed by the minority leader
24 of the senate, after consultation with the president of the
25 senate, from their respective parties; and two state
26 representatives appointed by the speaker, one from the
27 majority party after consultation with the majority leader of
28 the house and one from the minority party after consultation
29 with the minority leader of the house.

30 c. A designee of the state office of the natural resources
31 conservation service of the United States department of
32 agriculture, serving as a nonvoting ex officio member by the
33 head of the state office, upon request by the governor. If a
34 person is not so designated, the director of the soil
35 conservation division of the department of agriculture and

1 land stewardship or a designee shall serve in lieu thereof as
2 a nonvoting ex officio member.

3 d. The director of the department of natural resources or
4 the director's designee and the dean of the college of
5 agriculture at Iowa state university or the dean's designee,
6 who shall serve as nonvoting ex officio members.

7 2. The department shall furnish the council with a meeting
8 place, staff, and all articles, supplies, and services
9 necessary to enable the council to perform its duties.

10 3. The members appointed by the governor shall serve
11 three-year staggered terms beginning and ending as provided in
12 section 69.19. A member appointed by the governor is eligible
13 for reappointment. However, a member shall not serve for more
14 than two full consecutive terms. A vacancy on the council
15 shall be filled for the unexpired portion of the regular term
16 in the same manner as regular appointments are made. The
17 council shall elect a chairperson each year and meet at least
18 once every three months, and at the call of the chairperson or
19 upon the written request to the chairperson of three or more
20 voting members. Written notice of the time and place of each
21 meeting shall be given to each member. Six voting members
22 constitute a quorum and the affirmative vote of a majority of
23 the voting members present is necessary for any substantive
24 action to be taken by the council, except that a lesser number
25 may adjourn a meeting. The majority shall not include any
26 member who has a conflict of interest and a statement by a
27 member that the member has a conflict of interest is
28 conclusive for this purpose. A vacancy in the membership does
29 not impair the duties of the council.

30 4. The council shall do all of the following:

31 a. Advise the department and the environmental protection
32 commission regarding animal feeding operations.

33 b. Study the effects of animal feeding operations and
34 recommend to the department and environmental protection
35 commission solutions and policy or regulatory alternatives

1 relating to animal feeding operations, including
2 recommendations for rulemaking by the department pursuant to
3 chapter 17A or recommendations to the general assembly.

4 c. Provide advice and recommendations to the department
5 regarding all of the following:

6 (1) The need to require the installation and operation of
7 a hydrological monitoring system for an exclusively earthen
8 manure storage structure, as provided in section 455B.173.

9 (2) Manure application practices as provided in section
10 455B.201.

11 (3) The certification of manure plan managers as provided
12 in section 455B.201.

13 (4) The formulation of standards required for manure
14 management plans, as provided in section 455B.202, including
15 but not limited to manure sludge management.

16 d. Provide other information or perform other duties which
17 may be of assistance to animal feeding operations.

18 Sec. 8. NEW SECTION. 455B.110 ANIMAL FEEDING OPERATIONS
19 -- COMMISSION APPROVAL OF ENFORCEMENT ACTIONS.

20 The department shall not initiate an enforcement action in
21 response to a violation by an animal feeding operation as
22 defined in section 455B.161 as provided in this chapter or in
23 a rule adopted by this chapter, or request the commencement of
24 legal action by the attorney general pursuant to section
25 455B.141, unless the commission has approved the intended
26 action. This section shall not apply to an order to terminate
27 an emergency issued by the director pursuant to section
28 455B.175.

29 Sec. 9. Section 455B.134, subsection 3, paragraph f,
30 subparagraph (1), unnumbered paragraph 2, Code 1995, is
31 amended to read as follows:

32 Anaerobic lagoons, constructed or expanded on or after June
33 20, 1979, but prior to the effective date of this Act, or
34 earthen waste slurry storage basins, constructed or expanded
35 on or after July 1, 1990, but prior to the effective date of

1 this Act, which are used in connection with animal feeding
2 operations containing less than six hundred twenty-five
3 thousand pounds live animal weight capacity of animal species
4 other than beef cattle or containing less than one million six
5 hundred thousand pounds live animal weight capacity of beef
6 cattle, shall be located at least one thousand two hundred
7 fifty feet from a residence not owned by the owner of the
8 feeding operation or from a public use area other than a
9 public road. Anaerobic lagoons or earthen waste slurry
10 storage basins, which are used in connection with animal
11 feeding operations containing six hundred twenty-five thousand
12 pounds or more live animal weight capacity of animal species
13 other than beef cattle or containing one million six hundred
14 thousand pounds or more live animal weight capacity of beef
15 cattle, shall be located at least one thousand eight hundred
16 seventy-five feet from a residence not owned by the owner of
17 the feeding operation or from a public use area other than a
18 public road. For the purpose of this paragraph the
19 determination of live animal weight capacity shall be based on
20 the average animal weight capacity during a production cycle
21 and the maximum animal capacity of the animal feeding
22 operation. ~~These-separation-distances-apply-to-the~~
23 ~~construction-of-new-facilities-and-the-expansion-of-existing~~
24 ~~facilities.~~

25 SITING REQUIREMENTS -- NEW PART

26 Sec. 10. NEW SECTION. 455B.161 DEFINITIONS.27 As used in this part, unless the context otherwise
28 requires:

29 1. "Anaerobic lagoon" means an impoundment used in
30 conjunction with an animal feeding operation, if the primary
31 function of the impoundment is to store and stabilize organic
32 wastes, the impoundment is designed to receive wastes on a
33 regular basis, and the impoundment's design waste loading
34 rates provide that the predominant biological activity is
35 anaerobic. An anaerobic lagoon does not include any of the

1 following:

2 a. A confinement feeding operation structure.

3 b. A runoff control basin which collects and stores only
4 precipitation induced runoff from an animal feeding operation
5 in which animals are confined to areas which are unroofed or
6 partially roofed and in which no crop, vegetation, or forage
7 growth or residue cover is maintained during the period in
8 which animals are confined in the operation.

9 c. An anaerobic treatment system which includes collection
10 and treatment facilities for all off gases.

11 2. "Animal" means an animal belonging to the bovine,
12 porcine, ovine, caprine, equine, or avian species.

13 3. "Animal feeding operation" means a lot, yard, corral,
14 building, or other area in which animals are confined and fed
15 and maintained for forty-five days or more in any twelve-month
16 period, and all structures used for the storage of manure from
17 animals in the animal feeding operation. Two or more animal
18 feeding operations under common ownership or management are
19 deemed to be a single animal feeding operation if they are
20 adjacent or utilize a common system for manure storage.

21 4. "Animal feeding operation structure" means an anaerobic
22 lagoon or confinement feeding operation structure.

23 5. "Animal weight capacity" means the product of
24 multiplying the maximum number of animals which the owner or
25 operator confines in an animal feeding operation at any one
26 time by the average weight during a production cycle.

27 6. "Confinement building" means a building used in
28 conjunction with a confinement feeding operation to house
29 animals.

30 7. "Confinement feeding operation" means an animal feeding
31 operation in which animals are confined to areas which are
32 totally roofed.

33 8. "Confinement feeding operation structure" means a
34 formed manure storage structure, egg washwater storage
35 structure, earthen manure storage basin, or confinement

1 building. A confinement feeding operation structure does not
2 include an anaerobic lagoon.

3 9. "Earthen manure storage basin" means an earthen cavity,
4 either covered or uncovered, which, on a regular basis,
5 receives waste discharges from a confinement feeding operation
6 if accumulated wastes from the basin are completely removed at
7 least twice each year.

8 10. "Egg washwater storage structure" means an aerobic or
9 anaerobic structure used to store the wastewater from an egg
10 processing operation.

11 11. "Formed manure storage structure" means a structure,
12 either covered or uncovered, used to store manure, which has
13 walls and a floor constructed of concrete, concrete block,
14 wood, steel, or similar materials.

15 12. "Manure" means animal excreta or other commonly
16 associated wastes of animals, including, but not limited to,
17 bedding, litter, or feed losses.

18 13. "Public use area" means an area within a park in which
19 the state or a political subdivision holds an interest, if
20 facilities are located in the area which attract the public to
21 congregate and remain in the area for significant periods of
22 time. Such areas include, but are not limited to, picnic
23 grounds, campgrounds, lodges, shelter houses, and swimming
24 beaches.

25 Sec. 11. NEW SECTION. 455B.162 ANIMAL FEEDING OPERATIONS
26 -- NEW CONSTRUCTION AND EXPANSION.

27 The following shall apply to animal feeding operation
28 structures constructed on or after the effective date of this
29 Act or to the expansion of structures constructed on or after
30 the effective date of this Act:

31 1. The following table represents the minimum separation
32 distance in feet required between animal feeding operation
33 structures and residences not owned by owners of the animal
34 feeding operation:

35 Minimum separation

1	distance in feet	Minimum separation
2	for operations	distance in feet
3	having an animal	for operations
4	weight capacity	having an animal
5	of less than	weight capacity of
6	625,000 pounds	625,000 or more
7	for animals other	pounds for animals
8	than beef cattle,	other than beef
9	or less than	cattle, or 1,600,000
10	1,600,000 pounds	or more pounds for
11	Type of structure	beef cattle
12	Anaerobic lagoon	1,250
13	Uncovered earthen manure	1,875
14	storage basin	1,250
15	Uncovered formed manure	1,875
16	storage structure	1,000
17	Covered earthen manure	1,500
18	storage basin	750
19	Covered formed manure	1,000
20	storage structure	750
21	Confinement building	750
22	Egg washwater storage	1,000
23	structure	750

24 2. The following table represents the minimum separation
 25 distance in feet required between animal feeding operation
 26 structures and a public use area or the corporate limits of a
 27 city:

28	Minimum separation	
29	distance in feet	Minimum separation
30	for operations	distance in feet
31	having an animal	for operations
32	weight capacity	having an animal
33	of less than	weight capacity of
34	625,000 pounds	625,000 or more
35	for animals other	pounds for animals

1 than beef cattle, other than beef
 2 or less than cattle, or 1,600,000
 3 1,600,000 pounds or more pounds for
 4 Type of structure for beef cattle beef cattle
 5 Animal feeding
 6 operation structure 1,250 1,875

7 Sec. 12. NEW SECTION. 455B.163 DISTANCE SEPARATION
 8 REQUIREMENTS FOR ANIMAL FEEDING OPERATIONS -- EXPANSION OF
 9 STRUCTURES CONSTRUCTED PRIOR TO THE EFFECTIVE DATE OF THIS
 10 ACT.

11 An animal feeding operation, utilizing an animal feeding
 12 operation structure which is constructed before the effective
 13 date of this Act, may be expanded on or after the effective
 14 date of this Act, notwithstanding section 455B.162, if all of
 15 the following apply:

16 1. No portion of the expanded animal feeding operation
 17 structure is closer to a location or object than permitted
 18 under the distance separation requirements of section
 19 455B.162.

20 2. The animal weight capacity of the animal feeding
 21 operation as expanded is not more than the lesser of the
 22 following:

23 a. Double its capacity on the effective date of this Act.

24 b. Either of the following:

25 (1) Six hundred twenty-five thousand pounds animal weight
 26 capacity for animals other than beef cattle.

27 (2) One million six hundred thousand pounds animal weight
 28 capacity for beef cattle.

29 Sec. 13. NEW SECTION. 455B.165 DISTANCE MEASUREMENTS.

30 All distances between locations or objects provided in this
 31 part shall be measured from their closest points. The closest
 32 point of an anaerobic lagoon, earthen manure storage basin, or
 33 egg washwater storage structure shall be determined from the
 34 highest point of the associated berm closest to the location
 35 or object subject to the distance separation requirements.

1 Sec. 14. NEW SECTION. 455B.166 DISTANCE SEPARATION
2 REQUIREMENTS -- EXEMPTIONS.

3 A separation distance requirement provided in this part
4 shall not apply to the following:

5 1. A confinement feeding operation structure, other than
6 an earthen manure storage basin, if the confinement feeding
7 operation has an animal capacity of four hundred or fewer
8 animal units as defined in section 204.1.

9 2. An animal feeding operation structure which is
10 constructed or expanded, if the titleholder of the land
11 benefiting from the distance separation requirement executes a
12 written waiver with the titleholder of the land where the
13 structure is located, under such terms and conditions that the
14 parties negotiate. The written waiver becomes effective only
15 upon the recording of the waiver in the office of the recorder
16 of deeds of the county in which the benefited land is located.
17 The filed waiver shall preclude enforcement by the state of
18 this part as it relates to the confinement feeding operation
19 structure.

20 3. An animal feeding operation which is constructed or
21 expanded within the corporate limits of a city, or the area
22 within a separation distance required pursuant to this part,
23 if the city approves a waiver which shall be memorialized in
24 writing. The written waiver becomes effective only upon
25 recording the waiver in the office of the recorder of deeds of
26 the county in which the benefited land is located. The filed
27 waiver shall preclude enforcement by the state of this part as
28 it relates to the confinement feeding operation structure.
29 However, this subsection shall not affect a separation
30 distance required between residences as provided in this part.

31 4. An animal feeding operation structure which is located
32 within any distance from a residence, city, or public use
33 area, if the residence was constructed or expanded, or the
34 boundaries of the city or public use area were expanded, after
35 the date that the animal feeding operation structure was

1 constructed or expanded.

2 Sec. 15. Section 455B.171, Code 1995, is amended by adding
3 the following new subsections:

4 NEW SUBSECTION. 1A. "Animal feeding operation" means a
5 lot, yard, corral, building, or other area in which animals
6 are confined and fed and maintained for forty-five days or
7 more in any twelve-month period, and all structures used for
8 storage of manure from animals in the animal feeding
9 operation. Two or more animal feeding operations under common
10 ownership or management are deemed to be a single animal
11 feeding operation if they are adjacent or utilize a common
12 area or system for manure disposal.

13 NEW SUBSECTION. 1B. "Confinement feeding operation" means
14 the same as defined in section 455B.161.

15 NEW SUBSECTION. 7A. "Manure" means the same as defined in
16 section 455B.161.

17 NEW SUBSECTION. 7B. "Manure sludge" means the solid or
18 semisolid residue produced during the treatment of manure in
19 an anaerobic lagoon.

20 Sec. 16. Section 455B.173, subsection 3, unnumbered
21 paragraph 1, Code 1995, is amended to read as follows:

22 Establish, modify, or repeal rules relating to the
23 location, construction, operation, and maintenance of disposal
24 systems and public water supply systems and specifying the
25 conditions, including the viability of a system pursuant to
26 section 455B.174, under which the director shall issue,
27 revoke, suspend, modify, or deny permits for the operation,
28 installation, construction, addition to, or modification of
29 any disposal system or public water supply system, or for the
30 discharge of any pollutant ~~or-for-the-disposal-of-water-wastes~~
31 ~~resulting-from-poultry-and-livestock-operations~~. The rules
32 specifying the conditions under which the director shall issue
33 permits for the construction of an electric power generating
34 facility subject to chapter 476A shall provide for issuing a
35 conditional permit upon the submission of engineering

1 descriptions, flow diagrams and schematics that qualitatively
2 and quantitatively identify effluent streams and alternative
3 disposal systems that will provide compliance with effluent
4 standards or limitations.

5 Sec. 17. Section 455B.173, Code 1995, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 12. Adopt, modify, or repeal rules
8 relating to the construction or operation of animal feeding
9 operations. The rules shall include, but are not limited to,
10 minimum manure control requirements, requirements for
11 obtaining permits, and departmental evaluations of animal
12 feeding operations. The department shall collect fees for the
13 issuance of permits. The fees paid for the issuance of
14 construction permits shall be deposited in the manure storage
15 indemnity fund created in section 204.2. The department shall
16 issue a permit for the construction of an animal feeding
17 operation, if an application is submitted according to
18 procedures required by the department, and the application
19 meets standards established by the department, regardless of
20 whether the animal feeding operation is required to obtain
21 such a permit. Prior to granting a permit to a person for the
22 construction of an animal feeding operation, the department
23 may require the installation and operation of a hydrological
24 monitoring system for an exclusively earthen manure storage
25 structure, if, after an on-site inspection, the department
26 determines that the site presents an extraordinary potential
27 for groundwater pollution. The department shall consider
28 recommendations by the organic nutrient management advisory
29 council regarding the need to require the installation and
30 operation of a hydrological monitoring system. A person shall
31 not obtain a permit for the construction of a confinement
32 feeding operation, unless the person develops a manure
33 management plan as provided in section 455B.202. The
34 department shall not issue a permit to a person under this
35 subsection if the department has begun an enforcement action

1 which is not resolved, relating to an alleged violation of
2 this chapter concerning a confinement feeding operation in
3 which the person has an interest.

4 Sec. 18. Section 455B.191, Code 1995, is amended by adding
5 the following new subsections:

6 NEW SUBSECTION. 7. The department may impose an
7 additional civil penalty on a person required to obtain a
8 permit for the construction of a confinement feeding
9 operation, if the person has committed more than one violation
10 of this chapter or a rule adopted by the department pursuant
11 to this chapter relating to the confinement feeding operation.
12 The total amount of the additional civil penalty shall not
13 exceed five thousand dollars for each occurrence that a
14 penalty is assessed.

15 NEW SUBSECTION. 8. Moneys assessed and collected in civil
16 penalties imposed pursuant to this section on a person
17 required to obtain a permit for the construction of a
18 confinement feeding operation shall be deposited in the manure
19 storage indemnity fund as created in section 204.2.

20 CONFINEMENT FEEDING OPERATIONS

21 Sec. 19. NEW SECTION. 455B.201 MINIMUM MANURE CONTROL.

22 1. A confinement feeding operation shall retain all manure
23 produced by the operation between periods of manure disposal.
24 A confinement feeding operation shall not discharge manure
25 directly into water of the state or into a tile line that
26 discharges directly into water of the state.

27 2. Manure from an animal feeding operation shall be dis-
28 posed of in a manner which will not cause surface or
29 groundwater pollution. Disposal in accordance with rules or
30 guidelines adopted pursuant to this chapter shall be deemed as
31 compliance with this requirement. storage indemnity fund as
32 created in section 204.2.

33 Sec. 20. NEW SECTION. 455B.202 MANURE MANAGEMENT PLAN
34 CERTIFICATION -- TRAINING PROGRAM.

35 1. The department shall establish and administer a program

1 to certify persons as manure plan managers. A manure plan
2 manager shall be trained to carry out the terms and conditions
3 of a manure management plan as provided in section 455B.204.

4 2. In order to be certified, a person must complete not
5 less than four hours of training in the administration of the
6 terms and conditions of the manure management plans.

7 3. A certification shall expire five years following the
8 date that the person was last certified. In order to be
9 recertified, the person must complete four additional hours of
10 training as provided in this section.

11 4. Iowa state university shall develop and administer the
12 training program in cooperation with qualified persons
13 approved by the department. The training shall be conducted
14 by Iowa state university or a qualified person approved by the
15 department. To every extent possible, training courses shall
16 be offered in each county. The state is not required to
17 compensate persons selected to provide training. A
18 certification fee of ten dollars shall be paid to the
19 department. The department shall collect and use the fees for
20 purposes of supporting the training of manure plan managers.
21 Notwithstanding section 8.33, on August 31 following the close
22 of each fiscal year, all unencumbered or unobligated moneys
23 from fees shall be deposited in the organic nutrient
24 management fund as created in section 161C.5.

25 Sec. 21. NEW SECTION. 455B.203 MANURE MANAGEMENT
26 PRACTICES.

27 The department shall adopt rules for manure management
28 practices by persons required to obtain a permit for the
29 construction of a confinement feeding operation which shall
30 include the following:

31 1. Requirements for the submission and approval of a
32 manure management plan as provided in section 455B.204.

33 2. Manure application practices, including manure
34 application rates on land based on the production of
35 designated crops and according to crop schedules. The

1 application rates shall be based on nitrogen use levels of
2 designated crops, if the land where the manure is applied does
3 not exceed soil loss limits. The department shall establish
4 manure application rates based on phosphorus use levels of
5 designated crops, and phosphorus levels in the soil if the land
6 where the manure is applied exceeds soil loss limits.

7 3. The testing and management of manure sludge contained
8 in an anaerobic lagoon.

9 4. The application of manure sludge to land based on the
10 phosphorus content of the sludge, the phosphorus needs of the
11 crops, and the phosphorus levels in the soil.

12 5. The department shall consider adopting requirements
13 which distinguish between practices based on different types
14 of manures.

15 6. The department shall adopt rules based on
16 recommendations submitted by Iowa state university and the
17 division of soil conservation of the department of agriculture
18 and land stewardship, and after consideration of
19 recommendations submitted by the organic nutrient management
20 advisory council.

21 Sec. 22. NEW SECTION. 455B.204 MANURE MANAGEMENT PLAN
22 REQUIREMENTS.

23 1. a. A person shall not receive a permit for the
24 construction of a confinement feeding operation as provided in
25 section 455B.173, unless the person submits and complies with
26 a manure management plan in accordance with rules which shall
27 be adopted by the department pursuant to chapter 17A. The
28 plan shall provide for the application of manure in a manner
29 that is consistent with manure management practices provided
30 in section 455B.203. The department shall adopt all rules
31 required to implement this section not later than six months
32 following the effective date of this Act.

33 b. A person issued a permit for the construction of a
34 confinement feeding operation before January 1, 1994, shall
35 submit a manure management plan to the department not later

1 than two years and six months after the effective date of this
2 Act. A person issued a permit for the construction of a
3 confinement feeding operation between January 1, 1994, and six
4 months after the effective date of this Act, shall submit a
5 manure management plan to the department not later than one
6 year after the effective date of this Act. If a person
7 required to submit a delayed plan pursuant to this paragraph
8 violates section 455B.203, the person shall be required to
9 submit the plan to the department not later than one hundred
10 twenty days following notice by the department.

11 2. The manure plan manager shall administer the
12 implementation of and compliance with the plan, including
13 manure sludge management. The manure plan manager shall be
14 certified within six months after the department issues a
15 permit for the confinement feeding operation. However, a
16 person is not required to obtain a certification until two
17 years and six months following the effective date of this Act.

18 3. A manure management plan shall include, but is not
19 limited to, the following:

20 a. Calculations to determine the land area required for
21 application of manure from the confinement feeding operation
22 for the crop schedule specified in the plan.

23 b. The rate of manure application which shall be
24 consistent with the requirements of section 455B.203.

25 c. A crop schedule for land subject to application.

26 d. Manure sludge practices as required pursuant to
27 subsection 4.

28 4. A person operating a confinement feeding operation
29 which utilizes an anaerobic lagoon shall include a provision
30 for manure sludge management. The department shall adopt
31 rules for manure sludge management. The rules may include a
32 requirement that following approval of the plan by the
33 department, the depth of sludge be periodically determined,
34 the manure sludge tested for phosphorus content, and the
35 results of the test submitted to the department. The

1 department shall determine whether the person shall be
2 required to remove the manure sludge. If applied to land, the
3 department shall determine application practices pursuant to
4 section 455B.203, subsections 3 and 4, based on the
5 information submitted by the person and standards recommended
6 by Iowa state university, and after consideration of
7 recommendations submitted by the organic nutrient management
8 advisory council.

9 5. A person receiving a permit for the construction of a
10 confinement feeding operation shall maintain a current manure
11 management plan and maintain records sufficient to demonstrate
12 compliance with the manure management plan. Chapter 22 shall
13 not apply to the records which shall be kept confidential by
14 the department and its agents and employees. The contents of
15 the records are not subject to disclosure except as follows:

- 16 a. Upon waiver by the person receiving the permit.
- 17 b. In an action or administrative proceeding commenced
18 under this chapter. Any hearing related to the action or
19 proceeding shall be closed.
- 20 c. When required by subpoena or court order.

21 6. The department may inspect the confinement feeding
22 operation at any time during normal working hours, and may
23 inspect records required to be maintained as part of the
24 manure management plan.

25 7. A person required to submit a manure management plan
26 who is found in violation of the terms and conditions of the
27 plan shall not be subject to an enforcement action other than
28 assessment of a civil penalty pursuant to this chapter.

29 Sec. 23. NEW SECTION. 455B.205 DISTANCE REQUIREMENTS.

30 1. An animal feeding operation structure shall be located
31 at least two hundred feet away from the surface intake of an
32 agricultural drainage well, or a lake, river, or stream
33 located within the territorial limits of the state, any
34 marginal river area adjacent to the state, which can support a
35 floating vessel capable of carrying one or more persons during

1 a total of a six-month period in one out of ten years,
2 excluding periods of flooding. However, no distance
3 separation is required between a location or object and a farm
4 pond or privately owned lake, as defined in section 462A.2.

5 2. All distances between locations or objects shall be
6 measured from their closest points. The closest point of an
7 anaerobic lagoon, earthen manure storage basin, or egg
8 washwater storage structure shall be determined from the
9 highest point of the associated berm closest to the location
10 or object subject to the distance separation requirements.

11 Sec. 24. NEW SECTION. 657.11 ANIMAL FEEDING OPERATIONS.

12 1. The purpose of this section is to protect animal
13 agricultural producers who manage their operations according
14 to state and federal requirements from the costs of defending
15 nuisance suits, which negatively impact upon Iowa's
16 competitive economic position and discourage persons from
17 entering into animal agricultural production. This section is
18 intended to promote the expansion of animal agriculture in
19 this state by protecting persons engaged in the care and
20 feeding of animals. The general assembly has balanced all
21 competing interests and declares its intent to protect and
22 preserve animal agricultural production operations which
23 comply with the requirements of this section.

24 2. If a person obtains all applicable permits as required
25 in chapter 455B for the construction of an animal feeding
26 operation as defined in section 455B.161, the animal feeding
27 operation shall not be found to be a public or private
28 nuisance, under this chapter or under principles of common
29 law, regardless of the established date of the animal feeding
30 operation's construction or expansion, or whether the person
31 is required to obtain the permits or has obtained the permits
32 voluntarily. This nuisance suit protection includes
33 protection for, but not limited to, the care or feeding of
34 animals; the handling or transportation of animals; the
35 treatment or disposal of wastes resulting from animals; the

1 transportation and application of animal wastes; and the
2 creation of noise, odor, dust, or fumes arising from an animal
3 feeding operation.

4 3. The nuisance suit protection provided in this section
5 does not apply to a nuisance action brought against an animal
6 feeding operation, which arises out of any of the following:

7 a. A violation of a federal statute or regulation or state
8 statute or rule.

9 b. The negligent manner in which an animal feeding
10 operation is conducted.

11 c. Pollution or change in condition of the waters of a
12 stream, the overflowing of water of the animal feeding
13 operation onto another person's land, or excessive soil
14 erosion onto another person's land, caused by the animal
15 feeding operation unless the injury or damage is caused by an
16 act of God.

17 d. An injury to a person or damages to property caused by
18 the animal feeding operation before the effective date of this
19 Act. If the applicable permits are obtained on or after the
20 effective date of this Act, the nuisance suit protection does
21 not apply to injury or damages caused before the date the
22 applicable permits are obtained.

23 4. A plaintiff in a losing cause of action is liable to
24 the defendant for all costs and expenses incurred in the
25 defense of the action, if the cause of action is based on a
26 claim of a public or private nuisance. The costs shall
27 include but are not limited to reasonable attorney fees, court
28 costs, travel expenses, and other related incidental expenses.

29 Sec. 25. NOTICE. The department of natural resources
30 shall provide a written notice to persons required to develop
31 and comply with a manure management plan as provided in
32 section 455B.202 not later than nine months after the
33 effective date of this Act. The notice shall include
34 information from section 455B.202 regarding delayed dates of
35 compliance.

1

EXPLANATION

2 This bill provides for the regulation of animal feeding
3 operations.

4 The bill establishes a manure storage indemnity fund.
5 Moneys in the fund are appropriated to and for the purposes of
6 indemnifying a political subdivision for expenses related to
7 removing and disposing of manure from a manure storage
8 structure, and to pay the administrative costs of the
9 department. The department of agriculture and land
10 stewardship controls the fund and administers the program.
11 The fund is composed of a confinement feeding operation
12 construction fee paid before a construction permit is issued
13 by the department of natural resources. An annual fee is then
14 paid to the department of agriculture and land stewardship.
15 The amount of the fees equals 5 cents for each animal unit of
16 capacity for facilities housing poultry and 12 1/2 cents per
17 animal unit of capacity for facilities housing other species
18 of animals. If, on March 1, the moneys of the fund less the
19 department's estimate of the costs to the fund for pending or
20 unsettled claims exceeds \$500,000, then the annual fee is
21 waived for the next fiscal year. The bill provides for the
22 collection of the fees. The bill provides that a county that
23 has acquired real estate containing a manure storage structure
24 following nonpayment of taxes may make a claim against the
25 fund to pay the costs of removing and disposing of the manure
26 located in a manure storage structure on the real estate. The
27 department must determine if a claim is eligible, and either
28 pay the fixed amount specified in the bid submitted by the
29 county upon completion of the work or obtain a lower fixed
30 amount bid for the work from another qualified person, other
31 than a governmental entity, and pay the fixed amount in this
32 bid upon completion of the work. The department is not
33 required to comply with certain established bidding
34 procedures. Upon a determination that the claim is eligible
35 for payment, the department must provide for payment of 100

1 percent of the claim, but not more than \$150,000 per claimant.
2 If at any time the department determines that there are
3 insufficient moneys to make payment of all claims, the
4 department may order that payment be deferred on specified
5 claims.

6 The bill establishes an organic nutrient management
7 advisory council. The council consists of a number of
8 persons, including seven persons appointed by the governor,
9 after consultation with the secretary of agriculture, and
10 subject to confirmation by the senate, as provided in section
11 2.32. The persons include five persons actively engaged in
12 animal agricultural production, one person engaged in agri-
13 business, and one person who is interested in environmental
14 quality issues. The council is also composed of four members
15 of the general assembly. Several persons serve as nonvoting
16 ex officio members, including the director of the department
17 of natural resources, the dean of the college of agriculture
18 at Iowa state university, and a designee of the state office
19 of the natural resources conservation service of the United
20 States department of agriculture, or, in that person's stead,
21 the director of the soil conservation division of the
22 department of agriculture and land stewardship.

23 The council is responsible for advising the department and
24 the environmental protection commission regarding animal
25 feeding operations and recommending to the department and
26 commission solutions and policy or regulatory alternatives
27 relating to animal feeding operations, including
28 recommendations for rulemaking by the department and
29 recommendations to the general assembly.

30 The bill provides that the department of natural resources
31 is prohibited from initiating an enforcement action in
32 response to a violation by an animal feeding operation as
33 provided in the bill, unless the environmental commission
34 approves.

35 The bill rewrites and reorganizes existing provisions

1 relating to distance requirements that must exist between
2 anaerobic lagoons or earthen manure storage basins and
3 residences and public use areas. The bill provides a number
4 of new distance requirements which are applicable to animal
5 feeding operations, anaerobic lagoons, earthen manure storage
6 basins, formed manure storage structures, confinement
7 buildings, and egg washwater storage structures. The bill
8 limits the expansion of an animal feeding operation, if the
9 operation was constructed or expanded prior to the effective
10 date of the bill. The bill provides exceptions when
11 separation distance requirements are not applicable, including
12 when an operation has an animal capacity of 400 or fewer
13 animal units, and in cases in which the structure is
14 constructed or expanded pursuant to a waiver by the parties
15 affected or by cities.

16 The bill provides that the department may adopt rules
17 relating to the construction or operation of animal feeding
18 operations. The rules must include, but are not limited to,
19 minimum manure control requirements, requirements for
20 obtaining permits, and departmental evaluations of animal
21 feeding operations. The department is required to provide for
22 the issuance of permits for the construction of an animal
23 feeding operation, if an application is submitted according to
24 procedures required by the department, and the application
25 meets standards established by the department, regardless of
26 whether the animal feeding operation is required to obtain
27 such a permit. The bill requires that a person cannot obtain
28 a permit for the construction of a confinement feeding
29 operation, unless the person develops a manure management
30 plan.

31 The bill provides that the department is required to
32 establish and administer a program to certify that persons are
33 manure plan managers qualified to apply manure as required
34 under the plan. In order to become certified, the person must
35 receive at least four hours of training. A certification

1 expires five years following the date that the person was last
2 certified. In order to be recertified, the person must
3 complete four additional hours of training. The bill requires
4 Iowa state university to develop and administer the training
5 program. The university may act in cooperation with qualified
6 persons approved by the department.

7 The bill requires the department to adopt rules relating to
8 manure application practices by persons required to obtain a
9 permit for the construction of confinement feeding operations.
10 The department must adopt rules based on recommendations
11 submitted by Iowa state university and the department of
12 agriculture and land stewardship, and consider recommendations
13 by the organic nutrient management advisory council.

14 The bill provides for manure management plans. A person
15 cannot receive a permit for the construction of a confinement
16 feeding operation unless the person develops and complies with
17 a manure management plan as provided by rules which shall be
18 adopted by the department. The plan shall provide for the
19 application of manure in a manner that is consistent with
20 manure management practices required in the bill. The bill
21 provides for delayed implementation of the requirement.

22 The bill provides that a person operating a confinement
23 feeding operation which utilizes an anaerobic lagoon must
24 provide for manure sludge management as part of the plan. The
25 bill provides that a person required to maintain the plan must
26 keep records sufficient to demonstrate compliance with the
27 manure management plan. The public records law does not apply
28 to the records.

29 The bill provides that the department may impose an
30 additional civil penalty on a person required to obtain a
31 permit for the construction of a confinement feeding
32 operation, if the person has committed more than one violation
33 of a provision of chapter 455B.

34 The bill provides that if a person obtains all applicable
35 permits as required in chapter 455B for the construction of a

1 confinement feeding operation, the confinement feeding
2 operation shall not be found to be a public or private
3 nuisance, regardless of the established date of the
4 operation's construction or expansion, or whether the person
5 is required to obtain the permits or has obtained the permits
6 voluntarily. The nuisance suit protection does not apply to
7 an animal feeding operation, if the operation violates a
8 federal statute or regulation or state statute or rule, the
9 operation is conducted in a negligent manner, the operation
10 causes the pollution or change in condition of the waters of a
11 stream, the overflowing onto another persons's land, or
12 excessive soil erosion onto another person's land, unless the
13 injury or damage is caused by an act of God. The protection
14 also does not apply to an injury to a person or damages to
15 property caused by the operation before the effective date of
16 the bill. A plaintiff in a losing cause of action is liable
17 to the defendant for all costs and expenses incurred in the
18 defense of the action.

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HSB 50

Agriculture

*Eddie Ch.
Meyer
Blig.
Greene
Koenigs
Mertz
Mundie*

HOUSE FILE 519

BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON EDDIE)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act providing for the regulation of animal feeding operations,
2 providing for fees, and providing for penalties.

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

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1 Section 1. NEW SECTION. 204.1 DEFINITIONS.

2 1. "Animal unit" means a unit of measurement used to
3 determine the animal capacity of an animal feeding operation,
4 based upon the product of multiplying the number of animals of
5 each species by the following:

6	a. Slaughter and feeder cattle	1.0
7	b. Mature dairy cattle	1.4
8	c. Butcher and breeding swine	0.5
9	d. Sheep or lambs	0.1
10	e. Horses	2.0
11	f. Turkeys	0.018
12	g. Broiler or layer chickens	0.01

13 2. "Annual fee" means the fee provided in section 204.3.

14 3. "Confinement feeding operation" means a confinement
15 feeding operation as defined in section 455B.160.

16 4. "Construction fee" means the fee provided in section
17 204.3.

18 5. "Fund" means the manure storage indemnity fund created
19 in section 204.2.

20 6. "Manure storage structure" means a structure used to
21 store manure as part of a confinement feeding operation
22 required to be constructed pursuant to a permit issued by the
23 department of natural resources pursuant to section 455B.173.

24 7. "Permittee" means a person required to obtain a permit
25 for the construction of a confinement feeding operation, if a
26 manure storage structure is connected to the confinement
27 feeding operation.

28 Sec. 2. NEW SECTION. 204.2 MANURE STORAGE INDEMNITY
29 FUND.

30 1. A manure storage indemnity fund is created as a
31 separate fund in the state treasury under the control of the
32 department. The general fund of the state is not liable for
33 claims presented against the fund. The fund consists of
34 moneys from construction fees and annual fees remitted by
35 manure storage permittees as provided in section 204.3;

1 delinquency penalties; sums collected by the department by
2 legal action in order to collect moneys on behalf of the fund;
3 civil penalties assessed and collected by the department of
4 natural resources pursuant to section 455B.191; against
5 persons required to receive a permit for the construction of a
6 confinement feeding operation; and interest, property,
7 securities acquired through the use of moneys in the fund; or
8 moneys contributed to the fund from other sources.

9 2. The moneys collected under this section and deposited
10 in the fund shall be used exclusively to indemnify a political
11 subdivision for expenses related to removing and disposing of
12 manure from a manure storage structure, and to pay the
13 administrative costs of this chapter. The moneys in the fund
14 are appropriated to and for this purpose. Moneys in the fund
15 shall not be subject to appropriation for any other purpose.

16 3. The treasurer of state shall act as custodian of the
17 fund and disburse amounts contained in the fund as directed by
18 the department. The treasurer of state is authorized to
19 invest the moneys deposited in the fund. The income from such
20 investment shall be credited to and deposited in the fund.
21 Notwithstanding section 8.33, moneys in the fund are not
22 subject to reversion to the general fund of the state. The
23 fund shall be administered by the department which shall make
24 expenditures from the fund consistent with the purposes set
25 out in this chapter. The moneys in the fund shall be
26 disbursed upon warrants drawn by the director of revenue and
27 finance pursuant to the order of the department. The fiscal
28 year of the fund begins July 1. The finances of the fund
29 shall be calculated on an accrual basis in accordance with
30 generally accepted accounting principles. The auditor of
31 state shall regularly perform audits of the fund.

32 Sec. 3. NEW SECTION. 204.3 FEES.

33 1. A permittee shall pay a construction fee to the
34 department of natural resources before the permittee receives
35 a permit by the department of natural resources for the

1 construction of a confinement feeding operation, if the manure
2 storage structure is constructed on or after the effective
3 date of this Act. The amount of the fee shall equal five
4 cents for each animal unit of capacity for confinement feeding
5 operations housing poultry and twelve and one-half cents per
6 animal unit of capacity for confinement feeding operations
7 housing other species of animals. The department of natural
8 resources shall deposit the moneys into the fund in a manner
9 and according to procedures required by the department of
10 agriculture and land stewardship.

11 2. a. A permittee shall pay an annual fee to the
12 department of agriculture and land stewardship which shall be
13 remitted by July 1 of each year, unless the annual fee is
14 waived pursuant to subsection 3. The department shall provide
15 notice in writing to persons required to pay the fee on or
16 before June 1 of each year.

17 b. The annual fee shall equal five cents per animal unit
18 of capacity for confinement feeding operations housing poultry
19 and twelve and one-half cents per animal unit of capacity for
20 confinement feeding operations housing other species of
21 animals. The fee shall not be paid, if the confinement
22 feeding operation does not house any animals or manure on July
23 1. The permittee shall notify the department that the fee is
24 not owing by July 1.

25 c. A permittee is delinquent if the permittee fails to
26 submit the full fee when due, or if upon examination, an
27 underpayment of the fee is found by the department. The
28 permittee is subject to a penalty of ten dollars for each day
29 the permittee is delinquent or an amount equal to the amount
30 of the deficiency, whichever is less.

31 3. If, on March 1, the moneys of the fund, less the
32 department's estimate of the costs to the fund for pending or
33 unsettled claims, exceed five hundred thousand dollars, the
34 annual fee pursuant to subsection 2 shall be waived for the
35 next fiscal year and shall not be assessable or owing for that

1 year.

2 4. The department of natural resources shall provide the
3 department of agriculture and land stewardship the most
4 current available information regarding the names and
5 addresses of permittees, including the capacity of the
6 confinement feeding operations subject to the permit. The
7 information shall be delivered on or before January 1 of each
8 year.

9 Sec. 4. NEW SECTION. 204.4 COLLECTION.

10 The department in cooperation with the attorney general may
11 bring an action in court in order to collect moneys required
12 to be paid as provided in section 204.3.

13 Sec. 5. NEW SECTION. 204.5 CLAIMS AGAINST THE FUND.

14 1. A county that has acquired real estate containing a
15 manure storage structure following nonpayment of taxes
16 pursuant to section 446.19, may make a claim against the fund
17 to pay the costs of removing and disposing of the manure
18 located in a manure storage structure on the real estate.
19 Each claim shall include a bid by a qualified person, other
20 than a governmental entity, to remove and dispose of the
21 manure for a fixed amount specified in the bid.

22 2. The department shall determine if a claim is eligible
23 to be satisfied under this section, and do one of the
24 following:

25 a. Pay the fixed amount specified in the bid submitted by
26 the county upon completion of the work.

27 b. Obtain a lower fixed amount bid for the work from
28 another qualified person, other than a governmental entity,
29 and pay the fixed amount in this bid upon completion of the
30 work. The department is not required to comply with section
31 18.6 in implementing this section.

32 3. Upon a determination that the claim is eligible for
33 payment, the department shall provide for payment of one
34 hundred percent of the claim, as provided in this section, but
35 not more than three hundred thousand dollars per claimant. If

1 at any time the department determines that there are
2 insufficient moneys to make payment of all claims, the
3 department may order that payment be deferred on specified
4 claims. The department shall hold those claims for payment
5 until the department determines that the fund again contains
6 sufficient moneys.

7 4. In the event of payment of a claim under this section,
8 the fund is subrogated to the extent of the amount of the
9 payment to all rights, powers, privileges, and remedies of the
10 political subdivision regarding the payment amount. The
11 political subdivision shall render all necessary assistance to
12 assist the department in securing the rights granted in this
13 section. No action or claim initiated by a political
14 subdivision and pending at the time of payment from the fund
15 shall be compromised or settled without the consent of the

16 5. If upon disposition of the real estate the county
17 realizes an amount which exceeds the total amount due, the
18 county shall forward to the fund any excess amount which is
19 not more than the amount expended by the fund.

20 6. The department of agriculture and land stewardship
21 shall adopt administrative rules pursuant to chapter 17A to
22 implement this section.

23 Sec. 6. NEW SECTION. 204.6 NO STATE OBLIGATION.

24 This chapter does not imply any guarantee or obligation on
25 the part of the state of Iowa, or any of its agencies,
26 employees, or officials, either elective or appointive, with
27 respect to any agreement or undertaking to which this chapter
28 relates.

29 Sec. 7. NEW SECTION. 455A.7A ORGANIC NUTRIENT MANAGEMENT
30 ADVISORY COUNCIL.

31 1. An organic nutrient management advisory council is
32 established. Sections 69.16 and 69.16A apply to the
33 composition of the council. Members shall be entitled to
34 receive per diem and expenses as provided in section 7E.6.
35 The council shall consist of the following:

1 a. A designee of the state office of the natural resources
2 conservation service of the United States department of
3 agriculture, as appointed as a voting member by the head of
4 the state office, upon request by the governor. If a person
5 is not appointed, the director of the soil conservation
6 division of the department of agriculture and land stewardship
7 or a designee shall serve as a voting member instead.

8 b. Six persons appointed as voting members by the
9 governor, after consultation with the secretary of
10 agriculture, and subject to confirmation by the senate, as
11 provided in section 2.32. The persons shall include all of
12 the following:

13 (1) Four persons actively engaged in agricultural
14 production. Each person must be a member of a commodity
15 organization or association which represents agricultural
16 producers in this state.

17 (2) One person actively engaged in agricultural production
18 who is a member of an organization or association which
19 represents agricultural producers generally.

20 (3) One person who is interested in environmental quality
21 issues. The person must be a member of an association or
22 organization interested in the protection or preservation of
23 the natural environment.

24 c. Four members of the general assembly serving as voting
25 members who are two state senators, one appointed by the
26 president of the senate, after consultation with the majority
27 leader of the senate, and one appointed by the minority leader
28 of the senate, after consultation with the president of the
29 senate, from their respective parties; and two state
30 representatives appointed by the speaker, one from the
31 majority party after consultation with the majority leader of
32 the house and one from the minority party after consultation
33 with the minority leader of the house.

34 d. The director of the department of natural resources or
35 the director's designee and the dean of the college of

1 agriculture at Iowa state university, or a designee, who shall
2 serve as nonvoting ex officio members.

3 2. The department shall furnish the council with a meeting
4 place, staff, and all articles, supplies, and services
5 necessary to enable the council to perform its duties.

6 3. The members appointed by the governor shall serve
7 three-year terms beginning and ending as provided in section
8 69.19. However, the governor shall appoint some initial
9 members to serve for less than three years to ensure members
10 serve staggered terms. A member appointed by the governor is
11 eligible for reappointment. However, a member shall not serve
12 for more than two full consecutive terms. A vacancy on the
13 council shall be filled for the unexpired portion of the
14 regular term in the same manner as regular appointments are
15 made. The council shall elect a chairperson each year and
16 meet on a regular basis and at the call of the chairperson or
17 upon the written request to the chairperson of three or more
18 voting members. Written notice of the time and place of the
19 meeting shall be given to each member. Six voting members
20 constitute a quorum and the affirmative vote of a majority of
21 the voting members present is necessary for any substantive
22 action to be taken by the council, except that a lesser number
23 may adjourn a meeting. The majority shall not include any
24 member who has a conflict of interest and a statement by a
25 member that the member has a conflict of interest is
26 conclusive for this purpose. A vacancy in the membership does
27 not impair the duties of the council.

28 4. The council shall do all of the following:

29 a. Advise the department and the environmental protection
30 commission regarding animal feeding operations.

31 b. Study the effects of animal feeding operations and
32 recommend to the department and commission solutions and
33 policy or regulatory alternatives relating to animal feeding
34 operations, including recommendations for rulemaking by the
35 department pursuant to chapter 17A or recommendations to the

1 general assembly.

2 c. Provide advice and recommendations to the department
3 regarding all of the following:

4 (1) The need to require the installation and operation of
5 a hydrological monitoring system for an exclusively earthen
6 manure storage structure, as provided in section 455B.173.

7 (2) Manure application practices as provided in section
8 455B.201.

9 (3) The certification of manure plan managers as provided
10 in section 455B.201.

11 (4) The formulation of standards required for manure
12 management plans, as provided in section 455B.202, including
13 but not limited to sludge management subplans.

14 d. Provide other information or perform other duties which
15 may be of assistance to animal feeding operations.

16 Sec. 8. NEW SECTION. 455B.110 ANIMAL FEEDING OPERATIONS
17 -- COMMISSION APPROVAL OF ENFORCEMENT ACTIONS.

18 The department shall not initiate an enforcement action in
19 response to a violation by an animal feeding operation as
20 defined in section 455B.160 as provided in this chapter or in
21 a rule adopted by this chapter, or request the commencement of
22 legal action by the attorney general pursuant to section
23 455B.141, unless the commission has approved the intended
24 action. This section shall not apply to an order to terminate
25 an emergency issued by the director pursuant to section
26 455B.175.

27 Sec. 9. Section 455B.131, subsection 5, Code 1995, is
28 amended by striking the subsection.

29 Sec. 10. Section 455B.134, subsection 3, paragraph f, Code
30 1995, is amended by striking the paragraph.

31 SITING REQUIREMENTS -- NEW PART

32 Sec. 11. NEW SECTION. 455B.160 DEFINITIONS.

33 As used in this part, unless the context otherwise
34 requires:

35 1. "Animal feeding operation" means a lot, yard, corral,

1 building, or other area in which animals are confined and fed
2 and maintained for forty-five days or more in any twelve-month
3 period. Two or more animal feeding operations under common
4 ownership or management are deemed to be a single animal
5 feeding operation if they are adjacent or utilize a common
6 area or system for waste disposal.

7 2. "Animal weight capacity" means the actual average
8 animal weight of animals which can be confined in an animal
9 feeding operation at any one time.

10 3. "Confinement feeding operation" means a totally roofed
11 animal feeding operation in which manure is stored or removed
12 as a liquid, semiliquid, or solid.

13 4. "Confinement feeding operation structure" means a
14 structure used in conjunction with a confinement feeding
15 operation which is an open outside formed waste storage tank,
16 covered outside formed waste storage tank, egg washwater
17 lagoon, or building used to house animals.

18 5. "Earthen waste storage basin" means an uncovered
19 earthen cavity which, on a regular basis, receives waste
20 discharges from a confinement feeding operation if accumulated
21 wastes from the basin are completely removed at least twice
22 each year.

23 6. "Public use area" means an area within a park in which
24 the state or a political subdivision holds an interest, if
25 facilities are located in the area which attract the public to
26 congregate and remain in the area for significant periods of
27 time. Such areas include, but are not limited to, picnic
28 grounds, campgrounds, lodges, shelter houses, and swimming
29 beaches.

30 7. "Structure" means an anaerobic lagoon, earthen waste
31 storage basin, or confinement feeding operation structure.

32 8. "Water of the state" means any lake, river, or stream
33 within the territorial limits of this state, and the marginal
34 river areas adjacent to this state, which can support a
35 floating vessel capable of carrying one or more persons during

1 a total of a six-month period in one out of ten years,
2 excluding periods of flooding. However, "water of the state"
3 does not include a farm pond or privately owned lake, as
4 defined in section 462A.2.

5 Sec. 12. NEW SECTION. 455B.161 ANAEROBIC LAGOONS -- IN-
6 DUSTRIAL TREATMENT OF WASTEWATER FACILITIES.

7 1. An anaerobic lagoon constructed or expanded on or after
8 July 1, 1982, which is connected to an industrial treatment of
9 wastewater facility shall be located at least the following
10 distances away from a residence not owned by the owner of the
11 anaerobic lagoon or from a public use area, other than a
12 public road:

13 a. One thousand two hundred fifty feet, if the average
14 wastewater discharge flow from the anaerobic lagoon is one
15 hundred thousand gallons per day or less.

16 b. One thousand eight hundred seventy-five feet, if the
17 average wastewater discharge flow from the anaerobic lagoon is
18 greater than one hundred thousand gallons per day.

19 2. As used in this section, the term "public use area"
20 does not mean the same as defined in section 455B.160.

21 Sec. 13. NEW SECTION. 455B.162 ANIMAL FEEDING OPERATIONS
22 -- NEW CONSTRUCTION AND EXPANSION.

23 The following shall apply to structures constructed on or
24 after the effective date of this Act or to the expansion of
25 structures constructed on or after the effective date of this
26 Act:

27 1. An anaerobic lagoon or earthen waste storage basin
28 which is related to an animal feeding operation shall be
29 located at least the following distances away from a residence
30 not owned by the owner of the animal feeding operation:

31 a. One thousand two hundred fifty feet, if the animal
32 feeding operation contains the following:

33 (1) Less than six hundred twenty-five thousand pounds
34 animal weight capacity for all animal species other than beef
35 cattle.

1 (2) Less than one million six hundred thousand pounds
2 animal weight capacity for beef cattle.

3 b. One thousand eight hundred seventy-five feet, if the
4 animal feeding operation contains the following:

5 (1) Six hundred twenty-five thousand or more pounds animal
6 weight capacity for all animal species other than beef cattle.

7 (2) One million six hundred thousand or more pounds animal
8 weight capacity for beef cattle.

9 2. An open outside formed waste storage tank which is
10 related to a confinement feeding operation shall be located at
11 least the following distances away from a residence not owned
12 by the owner of the confinement feeding operation:

13 a. One thousand feet, if the confinement feeding operation
14 contains less than six hundred twenty-five thousand pounds
15 animal weight capacity of all animal species.

16 b. One thousand five hundred feet, if the confinement
17 feeding operation contains six hundred twenty-five thousand or
18 more pounds animal weight capacity of all animal species.

19 3. A building used to house animals which is related to a
20 confinement feeding operation shall be located at least the
21 following distances away from a residence not owned by the
22 owner of the confinement feeding operation:

23 a. Seven hundred fifty feet, if the confinement feeding
24 operation contains less than six hundred twenty-five thousand
25 pounds animal weight capacity of all animal species.

26 b. One thousand feet, if the confinement feeding operation
27 contains six hundred twenty-five thousand or more pounds
28 animal weight capacity of all animal species.

29 4. A covered outside formed waste storage tank which is
30 related to a confinement feeding operation shall be located at
31 least the following distances away from a residence not owned
32 by the owner of the confinement feeding operation:

33 a. Seven hundred fifty feet, if the confinement feeding
34 operation contains less than six hundred twenty-five thousand
35 pounds animal weight capacity of all animal species.

1 b. One thousand feet, if the confinement feeding operation
2 contains six hundred twenty-five thousand or more pounds
3 animal weight capacity of all animal species.

4 5. An egg washwater lagoon, which is related to a
5 confinement feeding operation, shall be located at least the
6 following distances away from a residence not owned by the
7 owner of the confinement feeding operation:

8 a. Seven hundred fifty feet, if the confinement feeding
9 operation contains less than six hundred twenty-five thousand
10 pounds animal weight capacity of all animal species.

11 b. One thousand feet, if the confinement feeding operation
12 contains six hundred twenty-five thousand or more pounds
13 animal weight capacity of all animal species.

14 6. An anaerobic lagoon or earthen waste storage basin
15 which is related to an animal feeding operation shall be
16 located at least the following distances away from a public
17 use area:

18 a. One thousand two hundred fifty feet, if the animal
19 feeding operation contains the following:

20 (1) Less than six hundred twenty-five thousand pounds
21 animal weight capacity for all animal species other than beef
22 cattle.

23 (2) Less than one million six hundred thousand pounds
24 animal weight capacity for beef cattle.

25 b. One thousand eight hundred seventy-five feet, if the
26 animal feeding operation contains the following:

27 (1) Six hundred twenty-five thousand or more pounds animal
28 weight capacity for all animal species other than beef cattle.

29 (2) One million six hundred thousand or more pounds animal
30 weight capacity for beef cattle.

31 7. A confinement feeding operation structure shall be
32 located at least the following distances away from a public
33 use area:

34 a. One thousand two hundred fifty feet, if the confinement
35 feeding operation contains less than six hundred twenty-five

1 thousand pounds animal weight capacity of all animal species.

2 b. One thousand eight hundred seventy-five feet, if the
3 confinement feeding operation contains six hundred twenty-five
4 thousand pounds or more animal weight capacity of all species.

5 8. An anaerobic lagoon, which is a part of an animal
6 feeding operation shall be located at least two hundred feet
7 from water of the state or a surface intake of an agricultural
8 drainage well.

9 9. An earthen waste storage basin which is related to a
10 confinement feeding operation shall be located at least two
11 hundred feet from water of the state or a surface intake of an
12 agricultural drainage well.

13 10. A confinement feeding operation structure which is
14 related to a confinement feeding operation shall be located at
15 least two hundred feet from water of the state or a surface
16 intake of an agricultural drainage well.

17 11. A structure which is related to a confinement feeding
18 operation shall be located at least the following distances
19 away from the corporate limits of a city:

20 a. One thousand two hundred fifty feet, if the confinement
21 feeding operation contains less than six hundred twenty-five
22 thousand pounds animal weight capacity of all animal species.

23 b. One thousand eight hundred seventy-five feet, if the
24 confinement feeding operation contains six hundred twenty-five
25 thousand pounds or more animal weight capacity of all animal
26 species.

27 Sec. 14. NEW SECTION. 455B.163 DISTANCE REQUIREMENTS FOR
28 ANIMAL FEEDING OPERATIONS -- CONSTRUCTION OR EXPANSION PRIOR
29 TO THE EFFECTIVE DATE OF THIS ACT.

30 1. An anaerobic lagoon constructed or expanded on or after
31 June 20, 1979, but prior to the effective date of this Act,
32 and an earthen waste storage basin constructed or expanded on
33 or after July 1, 1990, but prior to the effective date of this
34 Act, which is used in connection with an animal feeding
35 operation shall be located at least the following distances

1 away from a residence not owned by the owner of the animal
2 feeding operation or from a public use area other than a
3 public road:

4 a. One thousand two hundred fifty, if the animal feeding
5 operation contains the following:

6 (1) Less than six hundred twenty-five thousand pounds live
7 animal weight capacity of all animal species other than beef
8 cattle.

9 (2) Less than one million six hundred thousand pounds live
10 animal weight capacity of beef cattle.

11 b. One thousand eight hundred seventy-five feet, if the
12 animal feeding operation contains the following:

13 (1) Six hundred twenty-five thousand pounds or more live
14 animal weight capacity of all animal species other than beef
15 cattle.

16 (2) One million six hundred thousand pounds or more live
17 animal weight capacity of beef cattle.

18 2. For the purpose of this section, the determination of
19 live animal weight capacity shall be based on the average
20 animal weight during a production cycle and the maximum animal
21 capacity of the animal feeding operation.

22 3. As used in this section, the term "public use area"
23 does not mean the same as defined in section 455B.160.

24 Sec. 15. NEW SECTION. 455B.164 DISTANCE REQUIREMENTS FOR
25 CONFINEMENT FEEDING OPERATIONS -- EXPANSION OF STRUCTURES
26 CONSTRUCTED OR EXPANDED PRIOR TO THE EFFECTIVE DATE OF THE
27 ACT.

28 A confinement feeding operation, utilizing a confinement
29 feeding operation structure which is constructed or expanded
30 before July 1, 1995, may be expanded notwithstanding that
31 section, if all of the following apply:

32 1. No structure after expansion is closer to a residence,
33 public use area, water of the state, or city, than that
34 separation required under this chapter for a structure
35 constructed or expanded on or after the effective date of this

1 Act.

2 2. The animal weight capacity of the confinement feeding
3 operation as expanded is not more than double its capacity on
4 July 1, 1995, or six hundred twenty-five thousand pounds
5 animal weight capacity for all animal species, whichever is
6 less.

7 Sec. 16. NEW SECTION. 455B.165 DISTANCE MEASUREMENTS.

8 All distances between subjects provided in this part shall
9 be measured from their closest points.

10 Sec. 17. NEW SECTION. 455B.166 DISTANCE REQUIREMENTS FOR
11 CONFINEMENT FEEDING OPERATIONS -- EXEMPTIONS.

12 A separation distance requirement provided in this part
13 shall not apply to the following:

14 1. A confinement feeding operation structure, if the
15 confinement feeding operation has an animal capacity of four
16 hundred or fewer animal units, as provided in the federal
17 Water Pollution Control Act, 33 U.S.C. ch. 126, under the
18 national pollutant discharge elimination system permit
19 program.

20 2. A confinement feeding operation structure which is
21 constructed or expanded, if the titleholder of the land where
22 the structure is located executes a written waiver with the
23 titleholder of the land benefiting from the distance
24 requirement, under such terms and conditions that the parties
25 negotiate. The written waiver becomes effective only upon
26 recording in the office of the recorder of deeds of the county
27 in which the benefited land is located. The filed waiver
28 shall preclude enforcement of this part by the state.

29 Sec. 18. Section 455B.171, Code 1995, is amended by adding
30 the following new subsections:

31 NEW SUBSECTION. 1A. "Animal feeding operation" means the
32 same as defined in section 455B.160.

33 NEW SUBSECTION. 1B. "Confinement feeding operation" means
34 the same as defined in section 455B.160.

35 NEW SUBSECTION. 7A. "Manure" means excreta and other

1 commonly associated wastes of animals.

2 Sec. 19. Section 455B.173, subsection 3, unnumbered
3 paragraph 1, Code 1995, is amended to read as follows:

4 Establish, modify or repeal rules relating to the location,
5 construction, operation, and maintenance of disposal systems
6 and public water supply systems and specifying the conditions,
7 including the viability of a system pursuant to section
8 455B.174, under which the director shall issue, revoke,
9 suspend, modify, or deny permits for the operation,
10 installation, construction, addition to, or modification of
11 any disposal system or public water supply system, or for the
12 discharge of any pollutant ~~er-for-the-disposal-of-water-wastes~~
13 ~~resulting-from-poultry-and-livestock-operations~~. The rules
14 specifying the conditions under which the director shall issue
15 permits for the construction of an electric power generating
16 facility subject to chapter 476A shall provide for issuing a
17 conditional permit upon the submission of engineering
18 descriptions, flow diagrams and schematics that qualitatively
19 and quantitatively identify effluent streams and alternative
20 disposal systems that will provide compliance with effluent
21 standards or limitations.

22 Sec. 20. Section 455B.173, Code 1995, is amended by adding
23 the following new subsection:

24 NEW SUBSECTION. 12. Adopt, modify, or repeal rules
25 relating to the construction of animal feeding operations.
26 The rules shall include, but are not limited to, minimum
27 manure control requirements, requirements for obtaining
28 permits, and departmental evaluations of animal feeding
29 operations. The department shall provide for the issuance of
30 a permit for the construction of an animal feeding operation,
31 if an application is submitted according to procedures
32 required by the department, and the application meets
33 standards established by the department, regardless of whether
34 the animal feeding operation is required to obtain such a
35 permit. Prior to granting a permit to a person for the

1 construction of an animal feeding operation, the department
2 may require the installation and operation of a hydrological
3 monitoring system for an exclusively earthen manure storage
4 structure, if, after an on-site inspection, the department
5 determines that the site presents an extraordinary potential
6 for groundwater pollution. A person shall not obtain a permit
7 for the construction of a confinement feeding operation,
8 unless the person develops and complies with a manure
9 management plan as provided in section 455B.202. The
10 department shall consider recommendations by the organic
11 nutrient management advisory council regarding the need to
12 require the installation and operation of a hydrological
13 monitoring system. The department shall not issue a permit,
14 if there is an alleged violation of this part of division III
15 relating to a confinement feeding operation in which the
16 person has an interest, and the department is conducting an
17 investigation or initiating or conducting a contested case
18 proceeding.

19 CONFINEMENT FEEDING OPERATIONS

20 Sec. 21. NEW SECTION. 455B.200 MANURE MANAGEMENT PLAN
21 CERTIFICATION -- TRAINING PROGRAM.

22 1. The department shall establish and administer a program
23 to certify persons as manure plan managers. Manure plan
24 managers shall be trained to carry out the terms and
25 conditions of a manure management plan as provided in section
26 455B.202.

27 2. In order to be certified, a person must complete four
28 hours of training in the administration of the terms and
29 conditions of the manure management plans.

30 3. A certification shall expire five years following the
31 date that the person was last certified. In order to be
32 recertified, the person must complete four additional hours of
33 training as provided in this section.

34 4. Iowa state university shall develop and administer the
35 training program in cooperation with qualified persons

1 approved by the department. The training shall be conducted
2 by Iowa state university or a qualified person approved by the
3 department. To every extent possible, training courses shall
4 be offered in each county. The state is not required to
5 compensate persons selected to teach the courses. A
6 certification fee of ten dollars shall be paid to the
7 department. The department shall collect and use the fees for
8 purposes of supporting the training of manure plan managers.

9 Sec. 22. NEW SECTION. 455B.201 MANURE MANAGEMENT
10 PRACTICES.

11 The department shall adopt rules for manure management
12 practices by persons required to obtain a permit for the
13 construction of a confinement feeding operation which shall
14 include the following:

15 1. Requirements for the submission and approval of a
16 manure management plan as provided in section 455B.202.

17 2. Manure application practices, including manure
18 application rates on land based on the production of
19 designated crops and according to crop rotation schedules.
20 The application rates shall be based on nitrogen use levels of
21 designated crops, if the land where the manure is applied does
22 not exceed soil loss limits. The department shall establish
23 manure application rates based on phosphorus use levels of
24 designated crops, if the land where the manure is applied
25 exceeds soil loss limits.

26 3. The testing and management of sludge contained in an
27 anaerobic lagoon.

28 4. The application of sludge to land based on the
29 phosphorus content of the sludge, the phosphorus needs of the
30 crops, and the phosphorus levels in the soil.

31 5. The department shall adopt rules based on
32 recommendations submitted by Iowa state university and the
33 division of soil conservation of the department of agriculture
34 and land stewardship, and after consideration of
35 recommendations submitted by the organic nutrient management

1 advisory council.

2 Sec. 23. NEW SECTION. 455B.202 CONFINEMENT FEEDING
3 OPERATIONS -- MANURE MANAGEMENT PLAN REQUIREMENTS.

4 1. a. A person shall not receive a permit for the
5 construction of a confinement feeding operation as provided in
6 section 455B.173, unless the person develops and complies with
7 a manure management plan as provided by rules which shall be
8 adopted by the department pursuant to chapter 17A. The plan
9 shall provide for the application of manure in a manner that
10 is consistent with manure management practices provided in
11 section 455B.201. The department shall adopt all rules
12 required to implement this section not later than six months
13 following the effective date of this Act.

14 b. A person issued a permit for the construction of a
15 confinement feeding operation before January 1, 1994, shall
16 submit a manure management plan to the department not later
17 than two years and six months after the effective date of this
18 Act. A person issued a permit for the construction of a
19 confinement feeding operation between January 1, 1994, and six
20 months after the effective date of this Act, shall submit a
21 manure management plan to the department not later than one
22 year after the effective date of this Act. If a person
23 required to submit a delayed plan pursuant to this paragraph
24 violates section 455B.201, the person shall be required to
25 submit the plan to the department not later than one hundred
26 twenty days following notice by the department.

27 2. The manure plan manager shall be responsible for the
28 implementation of and compliance with the plan, including any
29 sludge management subplan.

30 If a person receives a permit for the construction of a
31 confinement feeding operation between January 1, 1994, and six
32 months after the effective date of this Act, the manure plan
33 manager must be certified by one year following the effective
34 date of this Act. If a person receives a permit for the
35 construction of a confinement feeding operation before January

1 1, 1994, the manure plan manager must be certified not later
2 than two years and six months after the effective date of this
3 Act.

4 3. A manure management plan shall include, but is not
5 limited to, all of the following:

6 a. Calculations to determine the land area required for
7 application of manure from the confinement feeding operation
8 for the crop rotation specified in the plan.

9 b. The rate of manure application which shall be
10 consistent with the requirements of section 455B.201.

11 c. A crop rotation schedule for land subject to
12 application.

13 d. A sludge management subplan, if required pursuant to
14 subsection 5.

15 4. A person operating a confinement feeding operation
16 which utilizes an anaerobic lagoon shall include a sludge
17 management subplan in the manure management plan. The sludge
18 management subplan shall include, but is not limited to,
19 requirements that every five years following approval of the
20 plan by the department, the depth of sludge shall be measured,
21 the sludge shall be tested for phosphorus content, and the
22 results of the test shall be submitted to the department. The
23 department shall determine whether the person shall be
24 required to remove the sludge and apply it to land, pursuant
25 to section 455B.201, based on the information submitted by the
26 person and recommendations by Iowa state university, and after
27 consideration of recommendations submitted by the organic
28 nutrient management advisory council.

29 5. A person receiving a permit for the construction of a
30 confinement feeding operation shall maintain records
31 sufficient to demonstrate compliance with the manure
32 management plan. The person shall keep a current manure
33 management plan on file, which shall include significant
34 modifications to the person's operations. A significant
35 modification includes, but is not limited to, an increase in

1 the amount of manure generated by the confinement feeding
2 operation or a decrease in the land area available for
3 application of manure. Chapter 22 shall not apply to the
4 records which shall be kept confidential by the department and
5 its agents and employees. The contents of the records are not
6 subject to disclosure except as follows:

7 a. Upon waiver by the person receiving the permit.

8 b. In an action or administrative proceeding commenced
9 under this chapter. Any hearing shall be closed.

10 c. When required by subpoena or court order.

11 d. The disclosure to law enforcement agencies in regard to
12 the detection and prosecution of public offenses.

13 6. The department may inspect the confinement feeding
14 operation any time, during normal working hours, and may
15 inspect records required to be maintained as part of the
16 manure management plan.

17 7. A person required to submit a manure management plan
18 who is found in violation of the terms and conditions of the
19 plan shall not be subject to an enforcement action other than
20 assessment of a civil penalty pursuant to this chapter.

21 Sec. 24. Section 455B.191, Code 1995, is amended by adding
22 the following new subsections:

23 NEW SUBSECTION. 7. The department may impose an
24 additional civil penalty on a person required to receive a
25 permit for the construction of a confinement feeding
26 operation, if the person has committed more than one violation
27 of a provision of this chapter or a rule adopted by the
28 department relating to the confinement feeding operation. The
29 total amount of the additional civil penalty shall not exceed
30 five thousand dollars for each occasion that a penalty is
31 assessed.

32 NEW SUBSECTION. 8. Moneys assessed and collected in civil
33 penalties imposed pursuant to this section on a person
34 required to receive a permit for the construction of a
35 confinement feeding operation shall be deposited in the manure

1 storage indemnity fund as created in section 204.2.

2 Sec. 25. NEW SECTION. 657.11 ANIMAL FEEDING OPERATIONS.

3 1. The purpose of this section is to protect animal
4 agricultural producers who manage their operations according
5 to state and federal requirements from the cost of defending
6 potentially expensive and time-consuming nuisance suits which
7 negatively impacts upon Iowa's competitive economic position,
8 and discourages persons from entering into animal agricultural
9 production. This section is intended to promote the expansion
10 of animal agriculture in this state by protecting persons
11 engaged in the care and feeding of animals. The general
12 assembly has balanced all competing interests and declares its
13 intent to protect and preserve animal agricultural production
14 operations which comply with the requirements of this section.

15 2. If a person receives all applicable permits as required
16 in chapter 455B for the construction of an animal feeding
17 operation as defined in section 455B.160, the animal feeding
18 operation shall not be found to be a public or private
19 nuisance, regardless of the established date of the operation
20 or expansion, or whether the person is required to receive the
21 permits or has obtained the permits voluntarily. This
22 nuisance suit protection includes, but is not limited to, the
23 care or feeding of animals; the handling or transportation of
24 animals; the treatment or disposal of wastes resulting from
25 animals; the transportation and application of animal wastes;
26 and the creation of noise, odor, dust, or fumes arising from
27 an animal feeding operation.

28 3. The nuisance suit protection provided in this section
29 does not apply to an animal feeding operation, if any of the
30 following apply:

31 a. The animal feeding operation violates a federal statute
32 or regulation or state statute or rule.

33 b. The animal feeding operation is conducted in a
34 negligent manner.

35 c. The animal feeding operation causes the pollution or

1 change in condition of the waters of a stream, the overflowing
2 of the operation's land, or excessive soil erosion onto
3 another person's land, unless the injury or damage is caused
4 by an act of God.

5 d. An injury to a person or damages to property is caused
6 by the animal feeding operation before the effective date of
7 this Act. If the applicable permits are obtained on or after
8 the effective date of this Act, the nuisance protection does
9 not apply to injury or damages caused before the date the
10 applicable permits are obtained.

11 4. A plaintiff in a losing cause of action is liable to
12 the defendant for all costs and expenses incurred in the
13 defense of the action, if the cause of action is based on a
14 claim of a public or private nuisance. The costs shall
15 include but are not limited to reasonable attorney fees, court
16 costs, travel expenses, and other related incidental expenses.

17 Sec. 26. NOTICE. The department of natural resources
18 shall provide a written notice to persons required to develop
19 and comply with a manure management plan as provided in
20 section 455B.202 not later than one year after the effective
21 date of this Act. The notice shall include information from
22 section 455B.202 regarding delayed dates of compliance.

23 EXPLANATION

24 This bill provides for the regulation of animal feeding
25 operations.

26 The bill establishes an organic nutrient management
27 advisory council. The council consists of a number of
28 persons, including a designee of the state office of the
29 natural resources conservation service of the United States
30 department of agriculture, or director of the soil
31 conservation division of the department of agriculture and
32 land stewardship; six persons appointed by the governor, after
33 consultation with the secretary of agriculture, and subject to
34 confirmation by the senate, as provided in section 2.32. The
35 persons include five persons actively engaged in animal

1 agricultural production and one person who is interested in
2 environmental quality issues. The council is also composed of
3 four members of the general assembly. The council is
4 responsible for advising the department and the environmental
5 protection commission regarding animal feeding operations and
6 recommending to the department and commission solutions and
7 policy or regulatory alternatives relating to animal feeding
8 operations, including recommendations for rulemaking by the
9 department and recommendations to the general assembly.

10 The bill provides that the department of natural resources
11 is prohibited from initiating an enforcement action in
12 response to a violation by an animal feeding operation as
13 provided in the bill.

14 The bill rewrites and reorganizes existing provisions
15 relating to distance requirements that must exist between
16 anaerobic lagoons or earthen waste basins and residences and
17 public use areas. The bill provides a number of new distance
18 requirements which are applicable to animal feeding
19 operations, anaerobic lagoons, earthen waste storage basins,
20 open outside formed waste storage tanks, buildings, covered
21 outside formed waste storage tanks, and egg washwater lagoons.
22 The bill limits the expansion of a confinement feeding
23 operation, if the operation was constructed or expanded prior
24 to the effective date of the bill. The bill provides
25 exceptions when a distance requirement is not applicable,
26 including when a structure has an animal capacity of 400 or
27 fewer animal units, and in cases in which the structure is
28 constructed or expanded pursuant to a waiver by the parties
29 affected.

30 The bill provides that the department may adopt rules
31 relating to the construction of animal feeding operations.
32 The rules must include, but are not limited to, minimum manure
33 control requirements, requirements for obtaining permits, and
34 departmental evaluations of animal feeding operations. The
35 department is required to provide for the issuance of permits

1 for the construction of an animal feeding operation, if an
2 application is submitted according to procedures required by
3 the department, and the application meets standards
4 established by the department, regardless of whether the
5 animal feeding operation is required to obtain such a permit.
6 The bill requires that a person cannot obtain a permit for the
7 construction of a confinement feeding operation, unless the
8 person develops a manure management plan.

9 The bill provides that the department is required to
10 establish and administer a program to certify that persons are
11 manure plan managers qualified to apply manure as required
12 under the plan. In order to become certified, the person must
13 receive four hours of training. A certification expires five
14 years following the date that the person was last certified.
15 In order to be recertified, the person must complete four
16 additional hours of training. The bill requires Iowa state
17 university to develop and administer the training program.
18 The university may act in cooperation with qualified persons
19 approved by the department.

20 The bill requires the department to adopt rules relating to
21 manure application practices by persons required to obtain a
22 permit for the construction of confinement feeding operations.
23 The department must adopt rules based on recommendations
24 submitted by Iowa state university and the department of
25 agriculture and land stewardship, and consider recommendations
26 by the organic nutrient advisory council.

27 The bill provides for manure management plans. A person
28 cannot receive a permit for the construction of a confinement
29 feeding operation unless the person develops and complies with
30 a manure management plan as provided by rules which shall be
31 adopted by the department. The plan shall provide for the
32 application of manure in a manner that is consistent with
33 manure management practices required in the bill. The
34 department must adopt all rules required to implement this
35 provision not later than six months following the effective

1 date of the bill.

2 The bill provides for the delay in meeting these
3 requirements by persons required to obtain construction
4 permits. The bill provides that a person operating a
5 confinement feeding operation which utilizes an anaerobic
6 lagoon must include a sludge management subplan as part of the
7 manure management plan. The bill provides that a person
8 required to maintain the plan must keep records sufficient to
9 demonstrate compliance with the manure management plan. The
10 public records law does not apply to the records.

11 The bill provides that the department may impose an
12 additional civil penalty on a person required to receive a
13 permit for the construction of a confinement feeding
14 operation, if the person has committed more than one violation
15 of a provision of chapter 455B.

16 The bill provides that if a person receives all applicable
17 permits as required in chapter 455B for the construction of a
18 confinement feeding operation, the confinement feeding
19 operation shall not be found to be a public or private
20 nuisance, regardless of the established date of the operation,
21 or whether the person is required to receive the permits or
22 has obtained the permits voluntarily. The nuisance suit
23 protection does not apply to an animal feeding operation, if
24 the operation violates a federal statute or regulation or
25 state statute or rule, the operation is conducted in a
26 negligent manner, the operation causes the pollution or change
27 in condition of the waters of a stream, the overflowing of the
28 operation's land, or excessive soil erosion onto another
29 person's land, unless the injury or damage is caused by an act
30 of God. The protection also does not apply to an injury to a
31 person or damages to property caused by the operation before
32 the effective date of the bill. A plaintiff in a losing cause
33 of action is liable to the defendant for all costs and
34 expenses incurred in the defense of the action.

35 The bill establishes a manure storage indemnity fund.

1 Moneys in the fund are appropriated to and for the purposes of
2 indemnifying a political subdivision for expenses related to
3 removing and disposing of manure from a manure storage
4 structure, and to pay the administrative costs of the
5 department. The department of agriculture and land
6 stewardship controls the fund and administers the program.
7 The fund is composed of a construction fee paid before a
8 construction permit is issued by the department of natural
9 resources. An annual fee is then paid to the department of
10 agriculture and land stewardship. The amount of the fees
11 equals 5 cents for each animal unit of capacity for facilities
12 housing poultry and 12 1/2 cents per animal unit of capacity
13 for facilities housing other species of animals. If, on March
14 1, the moneys of the fund less the department's estimate of
15 the costs to the fund for pending or unsettled claims exceeds
16 \$500,000, then the annual fee is waived for the next fiscal
17 year. The bill provides for the collection of the fees. The
18 bill provides that a county that has acquired real estate
19 containing a manure storage structure following nonpayment of
20 taxes may make a claim against the fund to pay the costs of
21 removing and disposing of the manure located in a manure
22 storage structure on the real estate. The department must
23 determine if a claim is eligible, and either pay the fixed
24 amount specified in the bid submitted by the county upon
25 completion of the work or obtain a lower fixed amount bid for
26 the work from another qualified person, other than a
27 governmental entity, and pay the fixed amount in this bid upon
28 completion of the work. The department is not required to
29 comply with certain established bidding procedures. Upon a
30 determination that the claim is eligible for payment, the
31 department must provide for payment of 100 percent of the
32 claim, but not more than \$300,000 per claimant. If at any
33 time the department determines that there are insufficient
34 moneys to make payment of all claims, the department may order
35 that payment be deferred on specified claims.

HOUSE FILE 519

AN ACT

PROVIDING FOR THE REGULATION OF ANIMAL FEEDING OPERATIONS, FEES, THE EXPENDITURE OF MONEYS, PENALTIES, AND AN EFFECTIVE DATE.

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

Section 1. Section 13.13, subsection 2, Code 1995, is amended to read as follows:

2. The farm assistance program coordinator shall contract with a nonprofit organization chartered in this state to provide mediation services as provided in chapters 654A and 654B, and 654C. ~~The contract shall be awarded to the organization by July 17, 1990.~~ The contract may be terminated by the coordinator upon written notice and for good cause. The organization awarded the contract is designated as the farm mediation service for the duration of the contract. The organization may, upon approval by the coordinator, provide mediation services other than as provided by law. The farm mediation service is not a state agency for the purposes of chapters 19A, 20, and 669.

Sec. 2. Section 13.15, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The farm mediation service shall recommend rules to the farm assistance program coordinator. The coordinator shall adopt rules pursuant to chapter 17A to set the compensation of mediators and to implement this subchapter and chapters 654A, and 654B, and 654C.

Sec. 3. NEW SECTION. 159.27 DISPOSAL OF MANURE WITHIN DESIGNATED AREAS -- ADOPTION OF RULES.

The department shall adopt rules relating to the disposal of manure in close proximity to a designated area. A person shall not dispose of manure on cropland within two hundred feet from a designated area, unless one of the following applies:

1. The manure is applied by injection or incorporation within twenty-four hours following the application.
2. An area of permanent vegetation cover exists for fifty feet surrounding the designated area and that area is not subject to manure application.

As used in this section, "designated area" means a known sinkhole, or a cistern, abandoned well, unplugged agricultural drainage well, agricultural drainage well surface inlet, drinking water well, or lake, or a farm pond or privately owned lake as defined in section 462A.2. However, a "designated area" does not include a terrace tile inlet.

Sec. 4. NEW SECTION. 204.1 DEFINITIONS.

1. "Animal unit" means a unit of measurement used to determine the animal capacity of a confinement feeding operation, based upon the product of multiplying the number of animals of each species by the following:

- | | |
|---|-------|
| a. Slaughter and feeder cattle | 1.0 |
| b. Mature dairy cattle | 1.4 |
| c. Butcher and breeding swine, over fifty-five pounds | 0.4 |
| d. Sheep or lambs | 0.1 |
| e. Horses | 2.0 |
| f. Turkeys | 0.018 |
| g. Broiler or layer chickens | 0.01 |

2. "Animal weight capacity" means the same as defined in section 455B.161.

3. "Confinement feeding operation" means a confinement feeding operation as defined in section 455B.161.

4. "Department" means the department of agriculture and land stewardship.

5. "Fund" means the manure storage indemnity fund created in section 204.2.

6. "Indemnity fee" means the fee provided in section 204.3.

7. "Manure" means animal excreta or other commonly associated wastes of animals, including but not limited to bedding, litter, or feed losses.

8. "Manure storage structure" means a structure used to store manure as part of a confinement feeding operation subject to a construction permit issued by the department of natural resources pursuant to section 455B.173. A manure storage structure includes, but is not limited to, an anaerobic lagoon, formed manure storage structure, or earthen manure storage basin, as defined in section 455B.161.

9. "Permittee" means a person who obtains a permit for the construction of a manure storage structure, or a confinement feeding operation, if a manure storage structure is connected to the confinement feeding operation.

Sec. 5. NEW SECTION. 204.2 MANURE STORAGE INDEMNITY FUND.

1. A manure storage indemnity fund is created as a separate fund in the state treasury under the control of the department. The general fund of the state is not liable for claims presented against the fund.

2. The fund consists of moneys from indemnity fees remitted by permittees to the department of natural resources and transferred to the department of agriculture and land stewardship as provided in section 204.3; sums collected on behalf of the fund by the department through legal action or settlement; moneys required to be repaid to the department by a county pursuant to this chapter; civil penalties assessed and collected by the department of natural resources pursuant to chapter 455B, against permittees; moneys paid as a

settlement involving an enforcement action for a civil penalty subject to assessment and collection against permittees by the department of natural resources pursuant to chapter 455B; interest, property, and securities acquired through the use of moneys in the fund; or moneys contributed to the fund from other sources.

3. The moneys collected under this section and deposited in the fund shall be appropriated to the department for the exclusive purpose of indemnifying a county for expenses related to cleaning up the site of the confinement feeding operation, including removing and disposing of manure from a manure storage structure, and to pay the department for costs related to administering the provisions of this chapter. For each fiscal year, the department shall not use more than one percent of the total amount which is available in the fund or ten thousand dollars, whichever is less, to pay for the costs of administration. Moneys in the fund shall not be subject to appropriation or expenditure for any other purpose.

4. The treasurer of state shall act as custodian of the fund and disburse amounts contained in the fund as directed by the department. The treasurer of state is authorized to invest the moneys deposited in the fund. The income from such investment shall be credited to and deposited in the fund. Notwithstanding section 8.33, moneys in the fund are not subject to reversion to the general fund of the state. The fund shall be administered by the department which shall make expenditures from the fund consistent with the purposes set out in this chapter. The moneys in the fund shall be disbursed upon warrants drawn by the director of revenue and finance pursuant to the order of the department. The fiscal year of the fund begins July 1. The finances of the fund shall be calculated on an accrual basis in accordance with generally accepted accounting principles. The auditor of state shall regularly perform audits of the fund.

5. On August 31 following the close of each fiscal year, moneys which are not obligated or encumbered on June 30 of the past fiscal year, less the department's estimate of the cost

to the fund for pending or unsettled claims, and which are in excess of one million dollars, shall be deposited in the organic nutrient management fund as created in section 161C.5 for purposes of supporting the organic nutrient management program.

Sec. 6. NEW SECTION. 204.3 FEES.

An indemnity fee shall be assessed upon permittees which shall be paid to and collected by the department of natural resources, prior to issuing a permit for the construction of a confinement feeding operation as provided in section 455B.173. The amount of the fees shall be based on the following:

1. If the confinement feeding operation has an animal weight capacity of less than six hundred twenty-five thousand pounds, the following shall apply:
 - a. For all animals other than poultry, the amount of the fee shall be five cents per animal unit of capacity for confinement feeding operations.
 - b. For poultry, the amount of the fee shall be two cents per animal unit of capacity for confinement feeding operations.
2. If the confinement feeding operation has an animal weight capacity of six hundred twenty-five thousand or more pounds but less than one million two hundred fifty thousand pounds, the following shall apply:
 - a. For all animals other than poultry, the amount of the fee shall be seven and one-half cents per animal unit of capacity for confinement feeding operations.
 - b. For poultry, the amount of the fee shall be three cents per animal unit of capacity for confinement feeding operations.
3. If the confinement feeding operation has an animal weight capacity of one million two hundred fifty thousand or more pounds, the following shall apply:
 - a. For all animals other than poultry, the amount of the fee shall be ten cents per animal unit of capacity for confinement feeding operations.

b. For poultry, the amount of the fee shall be four cents per animal unit of capacity for confinement feeding operations.

The department of natural resources shall deposit moneys collected from the fees into the fund according to procedures adopted by the department of agriculture and land stewardship.

Sec. 7. NEW SECTION. 204.4 CLAIMS AGAINST THE FUND.

1. A county that has acquired real estate containing a manure storage structure following nonpayment of taxes pursuant to section 446.19, may make a claim against the fund to pay the costs of cleaning up the site of the confinement feeding operation, including the costs of removing and disposing of the manure from a manure storage structure. Each claim shall include a bid by a qualified person, other than a governmental entity, to remove and dispose of the manure for a fixed amount specified in the bid.

2. The department shall determine if a claim is eligible to be satisfied under this section, and do one of the following:

- a. Pay the amount of the claim required in this section, based on the fixed amount specified in the bid submitted by the county upon completion of the work.
- b. Obtain a lower fixed amount bid for the work from another qualified person, other than a governmental entity, and pay the amount of the claim required in this section, based on the fixed amount in this bid upon completion of the work. The department is not required to comply with section 18.6 in implementing this section.

3. Upon a determination that the claim is eligible for payment, the department shall provide for payment of one hundred percent of the claim, as provided in this section. If at any time the department determines that there are insufficient moneys to make payment of all claims, the department shall pay claims according to the date that the claims are received by the department. To the extent that a claim cannot be fully satisfied, the department shall order that the unpaid portion of the payment be deferred until the

claim can be satisfied. However, the department shall not satisfy claims from moneys dedicated for the administration of the fund.

4. In the event of payment of a claim under this section, the fund is subrogated to the extent of the amount of the payment to all rights, powers, privileges, and remedies of the county regarding the payment amount. The county shall render all necessary assistance to the department in securing the rights granted in this section. A case or proceeding initiated by a county which involves a claim submitted to the department shall not be compromised or settled without the consent of the department. A county shall not be eligible to submit a claim to the department if the county has compromised or settled a case or proceeding, without the consent of the department.

5. If upon disposition of the real estate the county realizes an amount which exceeds the total amount of the delinquent real estate taxes, the county shall forward to the fund any excess amount which is not more than the amount expended by the fund to pay the claim by the county.

Sec. 8. NEW SECTION. 204.4A SITE CLEANUP.

A county which has acquired real estate containing a confinement feeding operation structure, as defined in section 455B.161, following the nonpayment of taxes pursuant to section 446.19, may cleanup the site, including removing and disposing of manure at any time. The county may seek reimbursement including by bringing an action for the costs of the removal and disposal from the person abandoning the real estate.

A person cleaning up a site located on real estate acquired by a county may dispose of any building or equipment used in the confinement feeding operation located on the land according to rules adopted by the department of natural resources pursuant to chapter 17A, which apply to the disposal of farm buildings or equipment by an individual or business organization.

Sec. 9. NEW SECTION. 204.5 NO STATE OBLIGATION.

This chapter does not imply any guarantee or obligation on the part of this state, or any of its agencies, employees, or officials, either elective or appointive, with respect to any agreement or undertaking to which this chapter relates.

Sec. 10. NEW SECTION. 204.6 DEPARTMENTAL RULES.

The department shall adopt administrative rules pursuant to chapter 17A necessary to administer this chapter.

Sec. 11. Section 260E.3, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 6. After August 31, 1995, a community college shall not enter into an agreement for a project which includes program services for employees of a confinement feeding operation as defined in section 455B.161.

Sec. 12. Section 455B.109, subsection 4, Code 1995, is amended to read as follows:

4. All civil penalties assessed by the department and interest on the penalties shall be deposited in the general fund of the state. However, civil penalties assessed by the department and interest on penalties, arising out of violations committed by animal feeding operations under division II, part 2, shall be deposited in the manure storage indemnity fund as created in section 204.2. Civil penalties assessed by the department and interest on the penalties arising out of violations committed by animal feeding operations under division III, which may be assessed pursuant to section 455B.191, shall be deposited in the manure storage indemnity fund as created in section 204.2.

Sec. 13. NEW SECTION. 455B.110 ANIMAL FEEDING OPERATIONS -- COMMISSION APPROVAL.

The department shall not initiate an enforcement action in response to a violation by an animal feeding operation as provided in this chapter or a rule adopted pursuant to this chapter, or request the commencement of legal action by the attorney general pursuant to section 455B.141, unless the commission has approved the intended action. This section shall not apply to an enforcement action in which the department enforces a civil penalty of three thousand dollars

or less. This section shall also not apply to an order to terminate an emergency issued by the director pursuant to section 455B.175.

Sec. 14. Section 455B.134, subsection 3, paragraph f, subparagraph (1), unnumbered paragraph 2, Code 1995, is amended to read as follows:

Anaerobic lagoons, constructed or expanded on or after June 20, 1979, but prior to the effective date of this Act, or earthen waste slurry storage basins, constructed or expanded on or after July 1, 1990, but prior to the effective date of this Act, which are used in connection with animal feeding operations containing less than six hundred twenty-five thousand pounds live animal weight capacity of animal species other than beef cattle or containing less than one million six hundred thousand pounds live animal weight capacity of beef cattle, shall be located at least one thousand two hundred fifty feet from a residence not owned by the owner of the feeding operation or from a public use area other than a public road. Anaerobic lagoons or earthen waste slurry storage basins, which are used in connection with animal feeding operations containing six hundred twenty-five thousand pounds or more live animal weight capacity of animal species other than beef cattle or containing one million six hundred thousand pounds or more live animal weight capacity of beef cattle, shall be located at least one thousand eight hundred seventy-five feet from a residence not owned by the owner of the feeding operation or from a public use area other than a public road. For the purpose of this paragraph the determination of live animal weight capacity shall be based on the average animal weight capacity during a production cycle and the maximum animal capacity of the animal feeding operation. ~~These separation distances apply to the construction of new facilities and the expansion of existing facilities.~~

ANIMAL FEEDING OPERATIONS REQUIREMENTS -- NEW PART 2

Sec. 15. NEW SECTION. 455B.161 DEFINITIONS.

As used in this part, unless the context otherwise requires:

1. "Anaerobic lagoon" means an impoundment used in conjunction with an animal feeding operation, if the primary function of the impoundment is to store and stabilize organic wastes, the impoundment is designed to receive wastes on a regular basis, and the impoundment's design waste loading rates provide that the predominant biological activity is anaerobic. An anaerobic lagoon does not include any of the following:

a. A confinement feeding operation structure.

b. A runoff control basin which collects and stores only precipitation induced runoff from an animal feeding operation in which animals are confined to areas which are unroofed or partially roofed and in which no crop, vegetation, or forage growth or residue cover is maintained during the period in which animals are confined in the operation.

c. An anaerobic treatment system which includes collection and treatment facilities for all off gases.

2. "Animal" means a domesticated animal belonging to the bovine, porcine, ovine, caprine, equine, or avian species.

3. "Animal feeding operation" means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for forty-five days or more in any twelve-month period, and all structures used for the storage of manure from animals in the operation. Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common system for manure storage. An animal feeding operation does not include a livestock market.

4. "Animal feeding operation structure" means an anaerobic lagoon or confinement feeding operation structure.

5. "Animal weight capacity" means the product of multiplying the maximum number of animals which the owner or operator confines in an animal feeding operation at any one time by the average weight during a production cycle.

6. "Commercial enterprise" means a building which is used as a part of a business that manufactures goods, delivers services, or sells goods or services, which is customarily and regularly used by the general public during the entire calendar year and which is connected to electric, water, and sewer systems. A commercial enterprise does not include a farm operation.

7. "Confinement building" means a building used in conjunction with a confinement feeding operation to house animals.

8. "Confinement feeding operation" means an animal feeding operation in which animals are confined to areas which are totally roofed.

9. "Confinement feeding operation structure" means a formed manure storage structure, egg washwater storage structure, earthen manure storage basin, or confinement building. A confinement feeding operation structure does not include an anaerobic lagoon.

10. "Covered" means organic or inorganic material placed upon an animal feeding operation structure used to store manure as provided by rules adopted by the department after receiving recommendations which shall be submitted to the department by the college of agriculture at Iowa state university.

11. "Earthen manure storage basin" means an earthen cavity, either covered or uncovered, which, on a regular basis, receives waste discharges from a confinement feeding operation if accumulated wastes from the basin are completely removed at least once each year.

12. "Educational institution" means a building in which an organized course of study or training is offered to students enrolled in kindergarten through grade twelve and served by local school districts, accredited or approved nonpublic schools, area education agencies, community colleges, institutions of higher education under the control of the state board of regents, and accredited independent colleges and universities.

13. "Egg washwater storage structure" means an aerobic or anaerobic structure used to store the wastewater resulting from the washing and in-shell packaging of eggs.

14. "Formed manure storage structure" means a structure, either covered or uncovered, used to store manure from a confinement feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials.

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

16. "Manure" means animal excreta or other commonly associated wastes of animals, including, but not limited to, bedding, litter, or feed losses.

17. "Public use area" means that portion of land owned by the United States, the state, or a political subdivision with facilities which attract the public to congregate and remain in the area for significant periods of time, as provided by rules which shall be adopted by the department pursuant to chapter 17A.

18. "Religious institution" means a building in which an active congregation is devoted to worship.

19. "Small animal feeding operation" means an animal feeding operation which has an animal weight capacity of two hundred thousand pounds or less for animals other than bovine, or four hundred thousand pounds or less for bovine.

20. "Swine farrow-to-finish operation" means a confinement feeding operation in which porcine are produced and in which a primary portion of the phases of the production cycle are conducted at one confinement feeding operation. Phases of the production cycle include, but are not limited to, gestation, farrowing, growing, and finishing.

Sec. 16. NEW SECTION. 455B.162 ANIMAL FEEDING OPERATIONS
-- NEW CONSTRUCTION AND EXPANSION.

The following shall apply to animal feeding operation structures constructed on or after the effective date of this Act; to the expansion of structures constructed on or after the effective date of this Act; or, except as provided in section 455B.163, to the expansion of structures constructed prior to the effective date of this Act:

1. Except as provided in subsection 2, the following table shall apply to animal feeding operation structures:

a. The following table represents the minimum separation distance in feet required between an animal feeding operation structure and a residence not owned by the owner of the animal feeding operation, or a commercial enterprise, bona fide religious institution or an educational institution:

Minimum separation distance in feet for operations having an animal weight capacity of less than 625,000 pounds for animals other than bovine, or less than	Minimum separation distance in feet for operations having an animal weight capacity of 625,000 pounds but less than 1,250,000 pounds for animals other than bovine, or more pounds but less than	Minimum separation distance in feet for operations having an animal weight capacity of 1,250,000 pounds or more for animals other than bovine, or more pounds but less than 4,000,000

Type of structure	1,600,000 pounds for bovine	4,000,000 pounds for bovine	or more pounds for bovine
Anaerobic lagoon	1,250	1,875	2,500
Uncovered earthen manure storage basin	1,250	1,875	2,500
Uncovered formed manure storage structure	1,000	1,500	2,000
Covered earthen manure storage basin	750	1,000	1,500
Covered formed manure storage structure	750	1,000	1,500
Confinement building	750	1,000	1,500
Egg washwater storage structure	750	1,000	1,500

b. The following table represents the minimum separation distance in feet required between animal feeding operation structures and a public use area or a residence not owned by the owner of the animal feeding operation, a commercial enterprise, a bona fide religious institution, or an educational institution located within the corporate limits of a city:

Minimum separation distance in feet for operations having an animal weight capacity of	Minimum separation distance in feet for operations having an animal weight capacity of	Minimum separation distance in feet for operations having an animal weight capacity of

	animal weight ca- capacity of less than 625,000 pounds for animals other than bovine, or less than 1,600,000 pounds	625,000 or more pounds but less than 1,250,000 pounds for ani- mals other than bovine, or 1,600,000 pounds but less than 4,000,000 pounds	animal weight ca- capacity of 1,250,000 or more pounds for ani- mals other than bovine, or 4,000,000 or more pounds	
Type of structure	for bovine	for bovine	for bovine	
Animal feeding operation structure	1,250	1,875	2,500	

2. a. As used in this subsection, a "qualified confinement feeding operation" means a confinement feeding operation having an animal weight capacity of two million or more pounds for animals other than animals kept in a swine farrow-to-finish operation or bovine kept in a confinement feeding operation; a swine farrow-to-finish operation having an animal weight capacity of two million five hundred thousand or more pounds; or a confinement feeding operation having an animal weight capacity of six million or more pounds for bovine.

b. A qualified confinement feeding operation shall only use an animal feeding operation structure which employs bacterial action which is maintained by the utilization of air or oxygen, and which shall include aeration equipment. The type and degree of treatment technology required to be installed shall be based on the size of the confinement feeding operation, according to rules adopted by the department. The equipment shall be installed, operated, and

maintained in accordance with the manufacturer's instructions and requirements of rules adopted pursuant to this subsection.

c. This subsection shall not apply to a confinement feeding operation which stores manure as dry matter, or to an egg washwater storage structure. This subsection shall not apply to a confinement feeding operation, if the operation was constructed prior to the effective date of this Act, or the department issued a permit prior to the effective date of this Act for the construction of an animal feeding operation structure connected to a confinement feeding operation and the construction began prior to the effective date of this Act.

Sec. 17. NEW SECTION. 455B.163 DISTANCE SEPARATION REQUIREMENTS FOR ANIMAL FEEDING OPERATIONS -- EXPANSION OF STRUCTURES CONSTRUCTED PRIOR TO THE EFFECTIVE DATE OF THIS ACT.

An animal feeding operation which does not comply with the distance requirements of section 455B.162, on the effective date of this Act, may continue to operate regardless of those separation distances. The animal feeding operation may be expanded on or after the effective date of this Act, regardless of those separation distances, if either of the following applies:

1. The animal feeding operation structure as constructed or expanded complies with the distance requirements of section 455B.162.

2. All of the following apply to the expansion of the animal feeding operation:

a. No portion of the animal feeding operation after expansion is closer than before expansion to a location or object for which separation is required under section 455B.162.

b. The animal weight capacity of the animal feeding operation as expanded is not more than the lesser of the following:

- (1) Double its capacity on the effective date of this Act.
- (2) Either of the following:

(a) Six hundred twenty-five thousand pounds animal weight capacity for animals other than bovine.

(b) One million six hundred thousand pounds animal weight capacity for bovine.

Sec. 18. NEW SECTION. 455B.164 DISTANCE MEASUREMENTS.

All distances between locations or objects provided in this part shall be measured from their closest points, as provided by rules adopted by the department.

Sec. 19. NEW SECTION. 455B.165 DISTANCE SEPARATION REQUIREMENTS -- EXEMPTIONS.

A separation distance requirement provided in this part shall not apply to the following:

1. A confinement feeding operation structure which provides for the storage of manure exclusively in a dry form.
2. A confinement feeding operation structure, other than an earthen manure storage basin, if the structure is part of a confinement feeding operation which qualifies as a small animal feeding operation.
3. An animal feeding operation structure which is constructed or expanded, if the titleholder of the land benefiting from the distance separation requirement executes a written waiver with the titleholder of the land where the structure is located, under such terms and conditions that the parties negotiate. The written waiver becomes effective only upon the recording of the waiver in the office of the recorder of deeds of the county in which the benefited land is located. The filed waiver shall preclude enforcement by the state of this part as it relates to the animal feeding operation structure.
4. An animal feeding operation which is constructed or expanded within the corporate limits of a city, or the area within a separation distance required pursuant to this part, if the city approves a waiver which shall be memorialized in writing. The written waiver becomes effective only upon recording the waiver in the office of the recorder of deeds of the county in which the benefited land is located. The filed waiver shall preclude enforcement by the state of this part as

it relates to the animal feeding operation structure. However, this subsection shall not affect a separation distance required between residences, educational institutions, commercial enterprises, bona fide religious institutions, or public use areas, as provided in this part.

5. An animal feeding operation structure which is located within any distance from a residence, educational institution, commercial enterprise bona fide religious institution, city, or public use area, if the residence, educational institution, commercial enterprise, or bona fide religious institution was constructed or expanded, or the boundaries of the city or public use area were expanded, after the date that the animal feeding operation was established. The date the animal feeding operation was established is the date on which the animal feeding operation commenced operating. A change in ownership or expansion of the animal feeding operation shall not change the established date of operation.

Sec. 20. Section 455B.171, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Animal feeding operation" means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for forty-five days or more in any twelve-month period, and all structures used for the storage of manure from animals in the animal feeding operation. Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common area or system for manure disposal. An animal feeding operation does not include a livestock market as defined in section 455B.161.

NEW SUBSECTION. 1B. "Animal weight capacity" means the same as defined in section 455B.161.

NEW SUBSECTION. 1C. "Confinement feeding operation" means the same as defined in section 455B.161.

NEW SUBSECTION. 7A. "Manure" means the same as defined in section 455B.161.

NEW SUBSECTION. 7B. "Manure sludge" means the solid or semisolid residue produced during the treatment of manure in an anaerobic lagoon.

NEW SUBSECTION. 23A. "Small animal feeding operation" means the same as defined in section 455B.161.

Sec. 21. Section 455B.173, subsection 3, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Establish, modify, or repeal rules relating to the location, construction, operation, and maintenance of disposal systems and public water supply systems and specifying the conditions, including the viability of a system pursuant to section 455B.174, under which the director shall issue, revoke, suspend, modify, or deny permits for the operation, installation, construction, addition to, or modification of any disposal system or public water supply system, or for the discharge of any pollutant ~~or-for-the-disposal-of-water-wastes resulting-from-poultry-and-livestock-operations~~. The rules specifying the conditions under which the director shall issue permits for the construction of an electric power generating facility subject to chapter 476A shall provide for issuing a conditional permit upon the submission of engineering descriptions, flow diagrams and schematics that qualitatively and quantitatively identify effluent streams and alternative disposal systems that will provide compliance with effluent standards or limitations.

Sec. 22. Section 455B.173, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Adopt, modify, or repeal rules relating to the construction or operation of animal feeding operations. The rules shall include, but are not limited to, minimum manure control requirements, requirements for obtaining permits, and departmental evaluations of animal feeding operations. The department shall not require that a person obtain a permit for the construction of an animal feeding operation structure, if the structure is part of a small animal feeding operation. The department shall collect an indemnity fee as provided in section 204.3 prior to the

issuance of a construction permit. The department shall not approve a permit for the construction of three or more animal feeding operation structures unless the applicant files a statement approved by a professional engineer registered pursuant to chapter 542B certifying that the construction of the animal feeding operation structure will not impede the drainage through established drainage tile lines which cross property boundary lines unless measures are taken to reestablish the drainage prior to completion of construction. The department shall deposit moneys collected in indemnity fees in the manure storage indemnity fund created in section 204.2. The department shall issue a permit for an animal feeding operation, if an application is submitted according to procedures required by the department, and the application meets standards established by the department, regardless of whether the animal feeding operation is required to obtain such a permit. An applicant for a construction permit shall not begin construction at the location of a site planned for the construction of an animal feeding operation structure, until the person has been granted a permit for the construction of the structure by the department. The department shall make a determination regarding the approval or denial of a permit within sixty days from the date that the department receives a completed application for a permit. However, the sixty-day requirement shall not apply to an application, if the applicant is not required to obtain a permit in order to construct an animal feeding operation structure or to operate an animal feeding operation. The department shall deliver a copy or require the applicant to deliver a copy of the application for a construction permit to the county board of supervisors in the county where the confinement feeding operation or confinement feeding operation structure subject to the permit is to be located. The department shall not approve the application or issue a construction permit until thirty days following delivery of the application to the county board of supervisors. The department shall consider comments from the county board of

supervisors, regarding compliance by the applicant with the legal requirements for the construction of the confinement feeding operation structure as provided in this chapter, and rules adopted by the department pursuant to this chapter, if the comments are delivered to the department within fourteen days after receipt of the application by the county board of supervisors. Prior to granting a permit to a person for the construction of an animal feeding operation, the department may require the installation and operation of a hydrological monitoring system for an exclusively earthen manure storage structure, if, after an on-site inspection, the department determines that the site presents an extraordinary potential for groundwater pollution. A person shall not obtain a permit for the construction of a confinement feeding operation, unless the person develops a manure management plan as provided in section 455B.203. The department shall not issue a permit to a person under this paragraph if an enforcement action by the department, relating to a violation of this chapter concerning a confinement feeding operation in which the person has an interest, is pending. The department shall not issue a permit to a person under this paragraph for five years after the date of the last violation committed by a person or confinement feeding operation in which the person holds a controlling interest during which the person or operation was classified as a habitual violator under section 455B.191. The department shall conduct an annual review of each confinement feeding operation which is a habitual violator and each confinement feeding operation in which a habitual violator holds a controlling interest. The department shall notify persons classified as habitual violators of their classification, additional restrictions imposed upon the persons pursuant to the classification, and special civil penalties that may be imposed upon the persons. The notice shall be sent to the persons by certified mail.

Sec. 23. Section 455B.191, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 7. The department may impose a civil penalty upon a habitual violator which shall not exceed twenty-five thousand dollars for each day the violation continues. The increased penalty may be assessed for each violation committed subsequent to the violation which results in classifying the person as a habitual violator. A person shall be classified as a habitual violator, if the person has committed three or more violations as described in this subsection. To be considered a violation that is applicable to a habitual violator determination, a violation must have been committed on or after January 1, 1995. In addition, each violation must have been referred to the attorney general for legal action under this chapter, and each violation must be subject to the assessment of a civil penalty or a court conviction, in the five years prior to the date of the latest violation provided in this subsection, counting any violation committed by a confinement feeding operation in which the person holds a controlling interest. A person shall be removed from the classification of habitual violator on the date on which the person and all confinement feeding operations in which the person holds a controlling interest have committed less than three violations described in this subsection for the prior five years. For purposes of counting violations, a continuing and uninterrupted violation shall be considered as one violation. Different types of violations shall be counted as separate violations regardless of whether the violations were committed during the same period. An violation must relate to one of the following:

a. The construction or operation of a confinement feeding operation structure or anaerobic lagoon which is part of a confinement feeding operation, or the installation or use of a related pollution control device or practice, for which the person must obtain a permit, in violation of this chapter, or rules adopted by the department, including the terms or conditions of the permit.

b. Intentionally making a false statement or misrepresenting information to the department as part of an

application for a construction permit for a confinement feeding operation structure or anaerobic lagoon which is part of a confinement feeding operation, or the installation of a related pollution control device or practice for which the person must obtain a construction permit.

c. Failing to obtain a permit or approval by the department in violation of this chapter or departmental rule which requires a permit to construct or operate a confinement feeding operation or use a confinement feeding operation structure, anaerobic lagoon, or a pollution control device or practice which is part of a confinement feeding operation.

d. Operating a confinement feeding operation, including a confinement feeding operation structure or anaerobic lagoon which is part of a confinement feeding operation, or a related pollution control device or practice, which causes pollution to the waters of the state, if the pollution was caused intentionally, or caused by a failure to take measures required to abate the pollution which resulted from an act of God.

e. Failing to submit a manure management plan as required pursuant to section 455B.203, or operating a confinement feeding operation without having a manure management plan approved by the department.

This subsection shall not apply, unless the department of natural resources has previously notified the person of the person's classification as a habitual violator as provided in section 455B.173.

NEW SUBSECTION. 8. Moneys assessed and collected in civil penalties and interest earned on civil penalties, arising out of a violation involving an animal feeding operation shall be deposited in the manure storage indemnity fund as created in section 204.2.

ANIMAL FEEDING OPERATIONS

Sec. 24. NEW SECTION. 455B.201 MINIMUM MANURE CONTROL.

1. A confinement feeding operation shall retain all manure produced by the operation between periods of manure disposal. A confinement feeding operation shall not discharge manure

directly into water of the state or into a tile line that discharges directly into water of the state.

2. Manure from an animal feeding operation shall be disposed of in a manner which will not cause surface water or groundwater pollution. Disposal in accordance with the provisions of state law, including this chapter, rules adopted pursuant to the provisions of state law, including this chapter, guidelines adopted pursuant to this chapter, and section 159.27, shall be deemed as compliance with this requirement.

3. The owner of the confinement feeding operation which discontinues the use of the operation shall remove all manure from related confinement feeding operation structures used to store manure, by a date specified in an order issued to the operation by the department, or six months following the date that the confinement feeding operation is discontinued, whichever is earlier.

4. A person shall not apply manure by spray irrigation equipment, except as provided by rules which shall be adopted by the department pursuant to chapter 17A.

Sec. 25. NEW SECTION. 455B.203 MANURE MANAGEMENT PLAN -- REQUIREMENTS.

1. In order to receive a permit for the construction of a confinement feeding operation as provided in section 455B.173, a person shall submit a manure management plan to the department together with the application for a construction permit.

2. A manure management plan shall include all of the following:

a. Calculations necessary to determine the land area required for the application of manure from a confinement feeding operation based on nitrogen use levels in order to obtain optimum crop yields according to a crop schedule specified in the plan, and according to requirements adopted by the department after receiving recommendations from the animal agriculture consulting organization provided for in this Act.

- b. Manure nutrient levels as determined by either manure testing or accepted standard manure nutrient values.
 - c. Manure application methods, timing of manure application, and the location of the manure application.
 - d. If the location of the application is on land other than land owned by the person applying for the construction permit, the plan shall include a copy of each written agreement executed between the person and the landowner where the manure will be applied.
 - e. An estimate of the annual animal production and manure volume or weight produced by the confinement feeding operation.
 - f. Methods, structures, or practices to prevent or diminish soil loss and potential surface water pollution.
 - g. Methods or practices to minimize potential odors caused by the application of manure by the use of spray irrigation equipment.
3. A person classified as a habitual violator or a confinement feeding operation in which a habitual violator owns a controlling interest, as provided in section 455B.191, shall submit a manure management plan to the department on an annual basis, which must be approved by the department for the following year of operation.
4. A person receiving a permit for the construction of a confinement feeding operation shall maintain a current manure management plan and maintain records sufficient to demonstrate compliance with the manure management plan. Chapter 22 shall not apply to the records which shall be kept confidential by the department and its agents and employees. The contents of the records are not subject to disclosure except as follows:
- a. Upon waiver by the person receiving the permit.
 - b. In an action or administrative proceeding commenced under this chapter. Any hearing related to the action or proceeding shall be closed.
 - c. When required by subpoena or court order.
5. The department may inspect the confinement feeding operation at any time during normal working hours, and may

inspect records required to be maintained as part of the manure management plan. The department shall regularly inspect a confinement feeding operation if the operation or a person holding a controlling interest in the operation is classified as a habitual violator pursuant to section 455B.191. The department shall assess and the confinement feeding operation shall pay the actual costs of the inspection. However, in order to access the operation, the departmental inspector must comply with standard disease control restrictions customarily required by the operation. The department shall comply with section 455B.103 in conducting an investigation of the premises where the animals are kept.

6. A person submitting a manure management plan who is found in violation of the terms and conditions of the plan shall not be subject to an enforcement action other than assessment of a civil penalty pursuant to section 455B.191.

Sec. 26. NEW SECTION. 455B.204 DISTANCE REQUIREMENTS.

1. An animal feeding operation structure shall be located at least five hundred feet away from the surface intake of an agricultural drainage well or known sinkhole, and at least two hundred feet away from a lake, river, or stream located within the territorial limits of the state, any marginal river area adjacent to the state, which can support a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding. However, no distance separation is required between a location or object and a farm pond or privately owned lake, as defined in section 462A.2.

All distances between locations or objects shall be measured from their closest points, as provided by rules adopted by the department.

2. A person shall not dispose of manure closer to a designated area than provided in section 159.27.

Sec. 27. NEW SECTION. 654C.1 DEFINITIONS.

As used in this chapter, unless otherwise required:

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

2. "Dispute" means a controversy between an owner and a neighbor, which arises from negotiations between the parties to establish an animal feeding operation structure within the separation distance.

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

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

5. "Owner" means the owner of an animal feeding operation, as defined in section 455B.161, which utilizes an animal feeding operation structure.

6. "Participate" or "participation" means attending a mediation meeting, and having knowledge about and discussing issues concerning a subject relating to a dispute.

7. "Waiver" means a waiver executed between an owner and a neighbor as provided in section 455B.165.

Sec. 28. NEW SECTION. 654C.2 MEDIATION PROCEEDINGS.

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

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

3. Unless mediation is cancelled, within twenty-one days after receiving a mediation request, the farm mediation service shall send a mediation meeting notice to all parties to the dispute setting a time and place for an initial

mediation meeting between the parties and a mediator directed by the farm mediation service to assist in mediation. An initial mediation meeting shall be held within twenty-one days of the issuance of the mediation meeting notice.

Sec. 29. NEW SECTION. 654C.3 DUTIES OF THE MEDIATOR.

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

1. Listen to all involved parties.
2. Attempt to mediate between all involved parties.
3. Encourage compromise and workable solutions.
4. Advise, counsel, and assist the parties in attempting to arrive at an agreement for the future conduct of relations among themselves.

Sec. 30. NEW SECTION. 654C.4 MEDIATION PERIOD.

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

Sec. 31. NEW SECTION. 654C.5 MEDIATION AGREEMENT.

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

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

3. The parties to the mediation agreement may enforce the mediation agreement as a legal contract.

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

Sec. 32. NEW SECTION. 654C.6 EXTENSION OF DEADLINES.

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

Sec. 33. NEW SECTION. 654C.7 EFFECT OF MEDIATION.

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

Sec. 34. Section 657.1, Code 1995, is amended to read as follows:

657.1 NUISANCE -- WHAT CONSTITUTES -- ACTION TO ABATE.

Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property, is a nuisance, and a civil action by ordinary proceedings may be brought to enjoin and abate the same and to recover damages sustained on account thereof.

Sec. 35. Section 657.2, subsection 1, Code 1995, is amended to read as follows:

1. The erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.

Sec. 36. NEW SECTION. 657.11 ANIMAL FEEDING OPERATIONS.

1. The purpose of this section is to protect animal agricultural producers who manage their operations according to state and federal requirements from the costs of defending

nuisance suits, which negatively impact upon Iowa's competitive economic position and discourage persons from entering into animal agricultural production. This section is intended to promote the expansion of animal agriculture in this state by protecting persons engaged in the care and feeding of animals. The general assembly has balanced all competing interests and declares its intent to protect and preserve animal agricultural production operations.

2. If a person has received all permits required pursuant to chapter 455B for an animal feeding operation, as defined in section 455B.161, there shall be a rebuttable presumption that an animal feeding operation is not a public or private nuisance under this chapter or under principles of common law, and that the animal feeding operation does not unreasonably and continuously interfere with another person's comfortable use and enjoyment of the person's life or property under any other cause of action. The rebuttable presumption also applies to persons who are not required to obtain a permit pursuant to chapter 455B for an animal feeding operation as defined in section 455B.161. The rebuttable presumption shall not apply if the injury to a person or damage to property is proximately caused by a failure to comply with a federal statute or regulation or a state statute or rule which applies to the animal feeding operation.

3. The rebuttable presumption may be overcome by clear and convincing evidence of both of the following:

a. The animal feeding operation unreasonably and continuously interferes with another person's comfortable use and enjoyment of the person's life or property.

b. The injury or damage is proximately caused by the negligent operation of the animal feeding operation.

4. The rebuttable presumption created by this section shall apply regardless of the established date of operation or expansion of the animal feeding operation. The rebuttable presumption includes, but is not limited to, a defense for actions arising out of the care and feeding of animals; the handling or transportation of animals; the treatment or

disposal of manure resulting from animals; the transportation and application of animal manure; and the creation of noise, odor, dust, or fumes arising from an animal feeding operation.

5. An animal feeding operation that complies with the requirements in chapter 455B for animal feeding operations shall be deemed to meet any common law requirements regarding the standard of a normal person living in the locality of the operation.

6. A person who brings a losing cause of action against a person for whom the rebuttable presumption created under this section is not rebutted, shall be liable to the person against whom the action was brought for all costs and expenses incurred in the defense of the action, if the court determines that a claim is frivolous.

7. The rebuttable presumption created in this section does not apply to an injury to a person or damages to property caused by the animal feeding operation before the effective date of this Act.

Sec. 37. ANIMAL AGRICULTURE CONSULTING ORGANIZATION. The department of natural resources shall request that the Iowa pork producers association, the Iowa cattlemen's association, the Iowa poultry association, the Iowa dairy products association, an organization representing agricultural producers generally, Iowa state university, the soil conservation division of the department of agriculture and land stewardship, and the natural resources conservation service of the United States department of agriculture each appoint one member to consult with the department regarding this Act, rules adopted pursuant to this Act, and the Act's implementation. The department shall consult with representatives in meetings which shall be conducted by the department, upon the call of the director of the department or the director's designee, or upon the request to the department of any three members. The department shall request that the representatives provide the department with recommendations regarding the adoption of rules required to administer this Act. This section is repealed on March 31, 2005.

Sec. 38. INDEMNITY FEES -- PRIOR PERMITTEES. The indemnity fee imposed upon permittees pursuant to section 204.3, as enacted in this Act, shall be imposed upon all persons who have received a permit by the department of natural resources for the construction of a confinement feeding operation with a manure storage structure as defined in section 455B.161, as enacted in this Act, prior to the effective date of this Act. However, an indemnity fee shall not be imposed upon a person who has received a construction permit more than ten years prior to the effective date of this Act. To every extent possible, the department shall notify all persons required to pay the fee. The notice shall be in writing. The department shall establish a date when the fees must be paid to the department, which shall be not less than three months after the delivery of the notice. If a person is delinquent in paying the indemnity fee when due, or if upon examination, an underpayment of the fee is found by the department, the person is subject to a penalty of ten dollars or an amount equal to the amount of deficiency for each day of the delinquency, whichever is less. After the date required for payment, the department shall transfer all outstanding claims to the department of agriculture and land stewardship. The department of natural resources shall deliver to the department of agriculture and land stewardship the most current available information regarding the persons required to pay the fee and any delinquency penalty, including the names and addresses of the persons, and the capacity of the confinement feeding operations subject to the permit. The department of agriculture and land stewardship, in cooperation with the attorney general, may bring a court action in order to collect indemnity fees and delinquency penalties required to be paid under this section.

Sec. 39. NOTICE. The department of natural resources shall provide a written notice to persons required to develop and comply with a manure management plan as provided in section 455B.203, as enacted in this Act, not later than nine months after the effective date of this Act. The notice shall

include information from section 455B.203, as enacted by this Act, regarding delayed dates of compliance.

Sec. 40. DELAYED IMPLEMENTATION OF CERTAIN REQUIREMENTS. Notwithstanding this Act, the following shall apply:

1. The department of natural resources shall adopt all rules required to implement section 455B.203, as enacted by this Act, not later than six months following the effective date of this Act.

2. A person issued a permit for the construction of a confinement feeding operation before the effective date of this Act shall submit a manure management plan to the department of natural resources not later than one year after the adoption of departmental rules necessary to implement the manure management plan requirements of section 455B.203, as enacted in this Act. However, if a person required to submit a delayed plan pursuant to this subsection violates section 455B.202, the person shall be required to submit the plan to the department not later than one hundred twenty days following notice by the department.

Sec. 41. PILOT PROJECT -- TESTING OF ANIMAL FEEDING OPERATIONS. The department of natural resources shall, to the extent moneys are appropriated by the Seventy-sixth General Assembly, conduct a study of ten animal feeding operations and their structures, including confinement feeding operations and confinement feeding operation structures all as defined in section 455B.161 as enacted in this Act, and manure management and disposal systems used by such operations. The operations and their structures or systems must have been constructed or installed on or before July 1, 1985. The study shall determine the extent to which operations and their structures and manure management and disposal systems contribute to point and nonpoint contamination of the state's groundwater and surface water. A person owning or operating an animal feeding operation may cooperate with the department in carrying out this section. The ten animal feeding operations subject to the study shall be selected by the Leopold center for sustainable agriculture as created pursuant to section 266.39.

The identity of the ten animal feeding operations shall be confidential and not subject to chapter 22. The findings of the study shall not be used in a case or proceeding brought against a person based upon a violation of state law. The department shall report its findings and recommendations to the general assembly not later than January 1, 1997.

Sec. 42. INTERIM STUDY COMMITTEE -- LIVESTOCK PRODUCTION.

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

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

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

2. The interim committee shall hold a public hearing in each congressional district.

3. The interim committee shall report its findings and recommendations to the general assembly not later than the first day of the 1996 legislative session, unless another date is established by the legislative council.

Sec. 43. SEVERABILITY. If any provision of this Act or the application of this Act to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which shall be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Sec. 44. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 519, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 31, 1995

TERRY E. BRANSTAD
Governor