

FILED JAN 10 1996

REPRINTED

SENATE FILE 2037
BY KIBBIE and HUSAK

Passed Senate, Date 3/6/96 Passed House, Date _____
Vote: Ayes 27 Nays 23 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to animal feeding operations by providing for
2 county zoning of certain operations, and imposing requirements
3 relating to construction permits.

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

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S.F. 2037

REPRINTED

1 Section 1. Section 335.2, Code 1995, is amended to read as
2 follows:

3 335.2 FARMS AGRICULTURAL USES EXEMPT.

4 1. As used in this section:

5 a. "Agricultural purpose" means any use connected or
6 related to farming.

7 b. "Animal weight capacity" means the same as defined in
8 section 455B.161.

9 c. "Confinement feeding operation" means the same as
10 defined in section 455B.161.

11 d. "Farming" means the same as defined in section 9H.1.

12 2. Except to-the-extent-required-to-implement-section
13 335.277, no as provided in this section, an ordinance adopted
14 under this chapter applies shall not apply to land, farm
15 including houses, farm barns, farm outbuildings or other
16 buildings or structures located on the land, which are is
17 primarily adapted, by reason of nature and area, for use-for
18 an agricultural purposes purpose, while so used. However, the
19 ordinances may apply to any

20 3. This section shall not apply to any of the following:

21 a. A confinement feeding operation which has an animal
22 weight capacity of more than two hundred thousand pounds for
23 animals other than bovine, or more than four hundred thousand
24 pounds for bovine.

25 b. An ordinance required to implement an agricultural
26 preservation ordinance, as provided in section 335.27.

27 c. A structure, building, dam, obstruction, deposit or
28 excavation in or on the flood plains of any a river or stream.

29 Sec. 2. Section 455B.173, subsection 13, Code Supplement
30 1995, is amended to read as follows:

31 13. a. Adopt, modify, or repeal rules relating to the
32 construction, including the expansion, of animal feeding
33 operations, or the operation of animal feeding operations.
34 The rules shall include, but are not limited to, minimum
35 manure control requirements, requirements for obtaining

1 permits, and departmental evaluations of animal feeding
2 operations. ~~The department shall not require that a person~~
3 ~~obtain a permit for the construction of an animal feeding~~
4 ~~operation structure, if~~ A person must obtain a construction
5 permit to construct a confinement feeding operation structure,
6 unless the structure is part of a small animal feeding
7 operation.

8 b. The department shall collect an indemnity fee as
9 provided in section 204.3 prior to the issuance of a
10 construction permit. The department shall deposit indemnity
11 fees in the manure storage indemnity fund created in section
12 204.2.

13 c. The department shall not approve a permit for the
14 construction of three or more animal feeding operation
15 structures unless the applicant files a statement approved by
16 a professional engineer registered pursuant to chapter 542B
17 certifying that the construction of the animal feeding
18 operation structure will not impede the drainage through
19 established drainage tile lines which cross property boundary
20 lines unless measures are taken to reestablish the drainage
21 prior to completion of construction. ~~The department shall~~
22 ~~deposit moneys collected in indemnity fees in the manure~~
23 ~~storage indemnity fund created in section 204.2.~~

24 d. The department shall issue a permit for an animal
25 feeding operation, if an application is submitted according to
26 procedures required by the department, and the application
27 meets standards established by the department, regardless of
28 whether the animal feeding operation is required to obtain
29 such a permit. An applicant for a construction permit shall
30 not begin construction at the location of a site planned for
31 the construction of an animal feeding operation structure,
32 until the person has been granted a permit for the
33 construction of the structure by the department. The
34 department shall make a determination regarding the approval
35 or denial of a permit within sixty days from the date that the

1 department receives a completed application for a permit.
2 However, the sixty-day requirement shall not apply to an
3 application, if the applicant is not required to obtain a
4 permit in order to construct an animal feeding operation
5 structure or to operate an animal feeding operation. The
6 department shall deliver a copy or require the applicant to
7 deliver a copy of the application for a construction permit to
8 the county board of supervisors in the county where the
9 confinement feeding operation or confinement feeding operation
10 structure subject to the permit is to be located. The
11 department shall not approve the application or issue a
12 construction permit until thirty days following delivery of
13 the application to the county board of supervisors. The
14 department shall consider comments from the county board of
15 supervisors, regarding compliance by the applicant with the
16 legal requirements for the construction of the confinement
17 feeding operation structure as provided in this chapter, and
18 rules adopted by the department pursuant to this chapter, if
19 the comments are delivered to the department within fourteen
20 days after receipt of the application by the county board of
21 supervisors. 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.

28 e. A person shall not obtain a permit for the construction
29 of a confinement feeding operation, unless the person develops
30 a manure management plan as provided in section 455B.203.

31 f. The department shall not issue a permit to a person
32 under this subsection if an enforcement action by the
33 department, relating to a violation of this chapter concerning
34 a confinement feeding operation in which the person has an
35 interest, is pending. The department shall not issue a permit

1 to a person under this subsection for five years after the
2 date of the last violation committed by a person or
3 confinement feeding operation in which the person holds a
4 controlling interest during which the person or operation was
5 classified as a habitual violator under section 455B.191. The
6 department shall conduct an annual review of each confinement
7 feeding operation which is a habitual violator and each
8 confinement feeding operation in which a habitual violator
9 holds a controlling interest. The department shall notify
10 persons classified as habitual violators of their
11 classification, additional restrictions imposed upon the
12 persons pursuant to the classification, and special civil
13 penalties that may be imposed upon the persons. The notice
14 shall be sent to the persons by certified mail.

15 EXPLANATION

16 This bill amends several provisions relating to animal
17 feeding operations. The bill amends chapter 335, which
18 provides for county zoning. Section 335.2 currently provides
19 that county zoning does not apply to land used for
20 agricultural purposes. The bill amends section 335.2 to
21 provide that an "agricultural purpose" means any use connected
22 or related to farming as defined in Iowa's corporate farming
23 law in chapter 9H. The bill provides that a county may adopt
24 a zoning ordinance which applies to a confinement feeding
25 operation having an animal weight capacity of more than
26 200,000 pounds for animals other than bovine, and 400,000
27 pounds for bovine. A confinement feeding operation is an
28 animal feeding operation which is totally roofed.

29 The bill also amends section 455B.173, which requires the
30 department of natural resources to adopt rules relating to the
31 issuance of permits for the construction of animal feeding
32 operation structures. In order to receive a permit for the
33 construction of a confinement feeding operation structure, as
34 provided in that section, a person must submit a manure
35 management plan to the department together with the

1 application for a construction permit. The determination of
2 which persons must obtain a construction permit is left to the
3 discretion of the department. The section does provide that a
4 construction permit is not required for the construction of a
5 small animal feeding operation, which has an animal weight
6 capacity of 200,000 pounds or less for animals other than
7 bovine and 400,000 pounds or less for bovine. The bill
8 provides that a construction permit is required for the
9 construction of any confinement feeding operation structure,
10 unless the structure is part of a small animal feeding
11 operation.

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SENATE FILE 2037

S-5097

- 1 Amend Senate File 2037 as follows:
- 2 1. Page 1, line 20, by striking the words "This
- 3 section" and inserting the following: "Subsection 2".
- 4 2. Page 1, by striking line 21, and inserting the
- 5 following:
- 6 "a. An animal feeding operation structure which is
- 7 part of a confinement feeding operation, if the
- 8 confinement feeding operation has an animal".
- 9 3. Page 1, by striking lines 23 and 24, and
- 10 inserting the following: "animals. However,
- 11 subsection 2 shall apply to an animal feeding
- 12 operation structure which is part of a confinement
- 13 feeding operation which confines only bovine animals
- 14 or poultry."
- 15 4. By renumbering as necessary.

By COMMITTEE ON NATURAL RESOURCES,
ENVIRONMENT AND ENERGY
BILL FINK, Chairperson

*Out of order 3/5/96
(P.634)*

S-5097 FILED FEBRUARY 21, 1996

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SENATE FILE 2037

S-5228

1 Amend Senate File 2037 as follows:

2 1. By striking page 1, line 29, through page 4,
3 line 14, and inserting the following:

4 "Sec. ____ . Section 9H.5A, subsection 3, paragraph
5 g, Code Supplement 1995, is amended to read as
6 follows:

7 g. The approximate number of livestock, including
8 cattle, sheep, swine, ostriches, rheas, emus, or
9 poultry, owned, contracted for, or kept by the
10 corporation, limited liability company, trust, or
11 limited partnership; ~~7~~ and the approximate number of
12 offspring produced from the livestock; and for each
13 county the animal weight capacity of each confinement
14 feeding operation in which swine are fed.

15 Sec. ____ . Section 9H.5B, Code 1995, is amended by
16 adding the following new subsection:

17 NEW SUBSECTION. 4. For each county, the animal
18 weight capacity of each confinement feeding operation
19 in which swine are fed pursuant to a care and feeding
20 contract in which the contract feeder is a party.

21 Sec. ____ . NEW SECTION. 9H.5C REPORTS BY
22 CONFINEMENT FEEDING OPERATIONS.

23 A person who owns confinement feeding operations
24 having a total animal weight capacity of seven million
25 five hundred thousand pounds or more shall file with
26 the secretary of state on or before March 31 of each
27 year, a report stating all of the following:

28 1. The name and address of the person.

29 2. The total animal weight capacity of all
30 confinement feeding operations which are owned by the
31 person.

32 3. For each county, the animal weight capacity of
33 all confinement feeding operations which are owned by
34 the person.

35 4. Whether the person is required to file a report
36 as a contract feeder pursuant to section 9H.5B.

37 Sec. ____ . Section 9H.14, Code 1995, is amended to
38 read as follows:

39 9H.14 DUTIES OF SECRETARY OF STATE.

40 ~~1. The secretary of state shall notify the~~
41 ~~attorney general when the secretary of state has~~
42 ~~reason to believe a violation of this chapter has~~
43 ~~occurred.---It is the intent of this section that~~
44 information Information compiled from reports required
45 under this section shall be made available to members
46 of the general assembly and appropriate committees of
47 the general assembly in order to determine the extent
48 of farming being carried out in this state by
49 corporations and other business entities and the
50 effect of such farming practices upon the economy of

S-5228

S-5228

Page 2

1 this state. The secretary of state shall assist any
2 committee of the general assembly existing or
3 established for the purposes of studying the effects
4 of this chapter and the practices this chapter seeks
5 to study and regulate.

6 2. The Notwithstanding chapter 22, reports of
7 corporations, limited liability companies, limited
8 partnerships, trusts, contractors, and processors
9 required in this chapter shall be confidential reports
10 except-as-to-the. However, the reports may be made
11 available to the attorney general for review and
12 appropriate action when necessary. Information
13 regarding confinement swine feeding enterprises as
14 defined in section 455B.171, shall not be
15 confidential.

16 3. ~~The secretary of state shall assist any~~
17 ~~committee of the general assembly existing or~~
18 ~~established for the purposes of studying the effects~~
19 ~~of this chapter and the practices this chapter seeks~~
20 ~~to study and regulate~~ each year compile information
21 regarding commercial confinement swine feeding
22 enterprises. The information shall be made available
23 upon request to a county. The information may be
24 compiled from reports required to be filed pursuant to
25 this chapter, including sections 9H.5A, 9H.5B, and
26 9H.5C, and financing statements required to be filed
27 pursuant to section 554.9401.

28 Sec. ____ . Section 455B.171, Code Supplement 1995,
29 is amended by adding the following new subsection:

30 NEW SUBSECTION. 4A. "Confinement swine feeding
31 enterprise" means a person who owns or is a party to a
32 contract for the care and feeding of swine, if the
33 swine are fed in confinement feeding operations and
34 the total animal weight capacity of all confinement
35 feeding operations in which the swine are fed in this
36 state is seven million five hundred thousand pounds or
37 more.

38 A confinement swine feeding operation which is
39 owned by a person holding an interest in a profit or
40 nonprofit entity, shall not be considered when
41 calculating animal weight capacity and shall not be
42 considered as part of a confinement swine feeding
43 enterprise, unless the swine are owned by the business
44 entity or subject to a contract for their care and
45 feeding in which the enterprise is a party.

46 Sec. ____ . Section 455B.173, subsection 13, Code
47 Supplement 1995, is amended to read as follows:

48 13. a. Adopt, modify, or repeal rules relating to
49 the construction or operation of animal feeding
50 operations. The rules shall include, but are not

S-5228

S-5228

Page 3

1 limited to, minimum manure control requirements,
2 requirements for obtaining permits, and departmental
3 evaluations of animal feeding operations. The
4 department shall not require that a person obtain a
5 permit for the construction of an animal feeding
6 operation structure, if the structure is part of a
7 small animal feeding operation.

8 b. The department shall collect an indemnity fee
9 as provided in section 204.3 prior to the issuance of
10 a construction permit. The department shall deposit
11 moneys collected in indemnity fees in the manure
12 storage indemnity fund created in section 204.2.

13 c. The department shall not approve a permit for
14 the construction of three or more animal feeding
15 operation structures unless the applicant files a
16 statement approved by a professional engineer
17 registered pursuant to chapter 542B certifying that
18 the construction of the animal feeding operation
19 structure will not impede the drainage through
20 established drainage tile lines which cross property
21 boundary lines unless measures are taken to
22 reestablish the drainage prior to completion of
23 construction. ~~The department shall deposit moneys~~
24 ~~collected in indemnity fees in the manure storage~~
25 ~~indemnity fund created in section 204.2.~~

26 d. The department shall issue a permit for an
27 animal feeding operation, if an application is
28 submitted according to procedures required by the
29 department according to this section, and the
30 application meets standards established by the
31 department, regardless of whether the animal feeding
32 operation is required to obtain such a permit. An
33 applicant for a construction permit shall not begin
34 construction at the location of a site planned for the
35 construction of an animal feeding operation structure,
36 until the person has been granted a permit for the
37 construction of the structure by the department.

38 e. The department shall make a determination
39 regarding the approval or denial of a permit within
40 sixty days from the date that the department receives
41 a completed application for a the approval of the
42 permit, as provided in this paragraph. However, the
43 sixty-day requirement shall not apply to an
44 application, if the applicant is not required to
45 obtain a permit in order to construct an animal
46 feeding operation structure or to operate an animal
47 feeding operation. The department shall deliver a
48 copy or require the applicant to deliver a copy of the
49 application for a construction permit to the county
50 board of supervisors in the county where the

S-5228

-3-

S-5228

Page 4

1 confinement feeding operation or confinement feeding
2 operation structure subject to the permit is to be
3 located. Upon receipt of an application for
4 departmental approval under this subsection, the
5 department shall determine if the application complies
6 with all permit requirements. The process of
7 approving or disapproving a permit shall be as
8 follows:

9 (1) If the confinement feeding operation is not a
10 confinement swine feeding enterprise, the department
11 shall not approve the application or issue a
12 construction permit until thirty days following
13 delivery of the application to the county board of
14 supervisors. The department shall consider comments
15 from the county board of supervisors, regarding
16 compliance by the applicant with the legal
17 requirements for the construction of the confinement
18 feeding operation structure as provided in this
19 chapter, and rules adopted by the department pursuant
20 to this chapter, if the comments are delivered to the
21 department within fourteen days after receipt of the
22 application by the county board of supervisors.

23 (2) If the confinement feeding operation is a
24 confinement swine feeding enterprise, the department
25 shall not approve the application unless the
26 department receives the approval of the application
27 from the county.

28 f. Prior to granting a permit to a person for the
29 construction of an animal feeding operation, the
30 department may require the installation and operation
31 of a hydrological monitoring system for an exclusively
32 earthen manure storage structure, if, after an on-site
33 inspection, the department determines that the site
34 presents an extraordinary potential for groundwater
35 pollution.

36 g. A person shall not obtain a permit for the
37 construction of a confinement feeding operation,
38 unless the person develops a manure management plan as
39 provided in section 455B.203.

40 h. The department shall not issue a permit to a
41 person under this subsection if an enforcement action
42 by the department, relating to a violation of this
43 chapter concerning a confinement feeding operation in
44 which the person has an interest, is pending. The
45 department shall not issue a permit to a person under
46 this subsection for five years after the date of the
47 last violation committed by a person or confinement
48 feeding operation in which the person holds a
49 controlling interest during which the person or
50 operation was classified as a habitual violator under

S-5228

S-5228

Page 5

1 section 455B.191. The department shall conduct an
2 annual review of each confinement feeding operation
3 which is a habitual violator and each confinement
4 feeding operation in which a habitual violator holds a
5 controlling interest. The department shall notify
6 persons classified as habitual violators of their
7 classification, additional restrictions imposed upon
8 the persons pursuant to the classification, and
9 special civil penalties that may be imposed upon the
10 persons. The notice shall be sent to the persons by
11 certified mail.

12 Sec. _____. Section 554.9402, subsection 1, Code
13 1995, is amended to read as follows:

14 1. A financing statement is sufficient if it gives
15 the names of the debtor and the secured party, is
16 signed by the debtor, gives an address of the secured
17 party from which information concerning the security
18 interest may be obtained, gives a mailing address of
19 the debtor and contains a statement indicating the
20 types, or describing the items, of collateral. A
21 financing statement may be filed before a security
22 agreement is made or a security interest otherwise
23 attaches. When the financing statement covers crops
24 growing or to be grown, the statement must also
25 contain a description of the real estate concerned.
26 When a financing statement covers swine fed in a
27 confinement feeding operation as provided in section
28 455B.161, the financing statement shall state the
29 animal weight capacity of the confinement feeding
30 operation as verified by the debtor. When the
31 financing statement covers timber to be cut or covers
32 minerals or the like (including oil and gas) or
33 accounts subject to section 554.9103, subsection 5, or
34 when the financing statement is filed as a fixture
35 filing (section 554.9313) and the collateral is goods
36 which are or are to become fixtures, the statement
37 must also comply with subsection 5. A copy of the
38 security agreement is sufficient as a financing
39 statement if it contains the above information and is
40 signed by the debtor. A copy of a jobs training
41 agreement entered into under chapter 260E or 260F
42 between an employer and a community college is
43 sufficient as a financing statement if it contains the
44 information required by this section and is signed by
45 the employer. A carbon, photographic or other
46 reproduction of a security agreement or a financing
47 statement is sufficient as a financing statement if
48 the security agreement so provides or if the original
49 has been filed in this state. The secretary of state
50 must accept for filing a copy of a signature required

S-5228

-5-

S-5228

Page 6

1 by this section. The secretary of state may adopt
 2 rules for the electronic filing of a financing
 3 statement.
 4 Sec. ____ . Section 554.9402, subsection 3, Code
 5 1995, is amended to read as follows:
 6 3. A form substantially as follows is sufficient
 7 to comply with subsection 1:
 8 Name of debtor (or assignor)
 9 Address
 10 Name of secured party (or assignee)
 11 Address
 12 (1) This financing statement covers the following
 13 types (or items) of property:
 14 (Describe)
 15 (2) (If collateral is crops) The above described
 16 crops are growing or are to be grown on:
 17 (Describe Real Estate)
 18 (3) (If collateral is swine fed in a confinement
 19 feeding operation) The above described swine are fed
 20 in a confinement feeding operation that has an animal
 21 weight capacity of:
 22 (State Animal Weight Capacity)
 23 ~~(3)~~ (4) (If applicable) The above goods are to
 24 become fixtures on
 25 Where appropriate either add or substitute "The
 26 above timber is standing on" or "The above
 27 minerals or the like (including oil and gas) are
 28 located on" or "The above accounts will be
 29 financed at the wellhead or minehead of the well or
 30 mine located on" or any or all of these
 31 (Describe Real Estate)
 32 and this financing statement is to be filed for record
 33 in the real estate records. (If the debtor does not
 34 have an interest of record) The name of a record owner
 35 is
 36 ~~(4)~~ (5) (If products of collateral are claimed)
 37 Products of the collateral are also covered.
 38 (use whichever is applicable)
 39 Signature of Debtor (or Assignor)
 40 Signature of Secured Party (or Assignee)"
 41 2. By renumbering as necessary.

By STEWART IVERSON, Jr.
EMIL J. HUSAK

S-5228 FILED MARCH 6, 1996
RULED OUT OF ORDER

(P. 671)

SENATE FILE 2037

S-5230

1 Amend the amendment, S-5223, to Senate File 2037 as
 2 follows:
 3 1. Page 2, line 5, by striking the words "three
 4 hundred" and inserting the following: "six hundred
 5 twenty-five".

By ANDY MCKEAN
MERLIN E. BARTZ

S-5230 FILED MARCH 6, 1996
LOST

(A. 670)

SENATE FILE 2037

S-5223

- 1 Amend Senate File 2037 as follows:
2 1. Page 1, by inserting before line 29 the
3 following:
4 "Sec. ____ . NEW SECTION. 331.309 CONFINEMENT
5 FEEDING OPERATIONS -- SITING ORDINANCE.
6 1. As used in this section:
7 a. "Animal feeding operation structure" means the
8 same as defined in section 455B.161.
9 b. "Animal weight capacity" means the same as
10 defined in section 455B.161.
11 c. "Confinement feeding operation" means the same
12 as defined in section 455B.161.
13 2. a. Notwithstanding section 335.2, a county may
14 adopt a confinement feeding operations siting
15 ordinance, pursuant to section 331.302. The purpose
16 of the ordinance shall be to approve the siting of a
17 confinement feeding operation regardless of whether
18 the county has adopted an ordinance under chapter 335
19 or regardless of the classification of the confinement
20 feeding operation. The ordinance shall provide
21 authority to a county to approve the site of the
22 construction or expansion of a confinement feeding
23 operation, including confinement feeding operation
24 buildings and related animal feeding operation
25 structures in order to preserve and protect natural
26 resources, including water sources and fragile
27 environmental locations; lessen congestion and
28 overcrowding of confinement feeding operations,
29 especially near cities; and to protect the health and
30 welfare of the public.
31 b. The ordinance shall provide for a method and
32 procedure required to approve the site. In
33 administering the ordinance, the county shall
34 establish a confinement feeding operations siting
35 commission which shall review each proposal for the
36 construction or expansion of a confinement feeding
37 operation, and recommend to the county board of
38 supervisors that the board approve or disapprove the
39 proposal. The board shall appoint five members of the
40 commission. Four members shall not reside in a city,
41 and one member shall reside in a city. At least three
42 members shall be or have been actively engaged in
43 animal agriculture. The commission shall make its
44 recommendation to the board within forty-five days
45 from the date that the board receives a complete
46 proposal. The board shall approve or disapprove a
47 proposal within forty-five days from the date that the
48 board receives the commission's recommendation.
49 c. A confinement feeding operations siting
50 ordinance shall not apply to a confinement feeding

S-5223

-1-

S-5223

Page 2

1 operation, if either of the following apply:

2 (1) Only bovine or poultry are confined in the
3 confinement feeding operation.

4 (2) The confinement feeding operation has an
5 animal weight capacity of less than three hundred
6 thousand pounds."

7 2. Title page, line 2, by inserting after the
8 word "zoning" the following: "and siting".

9 3. By renumbering as necessary.

By EUGENE FRAISE
JOHN P. KIBBIE
PATTY JUDGE
ANDY MCKEAN

MARY A. LUNDBY
RODNEY HALVORSON
TOM FLYNN
ALBERT G. SORENSEN

S-5223 FILED MARCH 6, 1996

ADOPTED

(p.671)

S-5222

1 Amend Senate File 2037 as follows:

2 1. Page 1, by inserting before line 29 the
3 following:

4 "DIVISION VI

5 SWINE ODOR CONTROL RESEARCH

6 Sec. ____ . NEW SECTION. 266.50 DEFINITIONS.

7 As used in this chapter:

8 1. "Assessment" means an excise tax on the sale of
9 porcine animals as provided in this division.

10 2. "Department" means the department of
11 agriculture and land stewardship.

12 3. "First purchaser" means a person who buys
13 porcine animals from a producer in the first instance.

14 4. "Porcine animals" means swine raised for
15 slaughter, feeder pigs, or swine seedstock.

16 5. "Producer" means a person engaged in this state
17 in the business of producing and selling porcine
18 animals in the previous calendar year, if at any time
19 during that year the person owns twenty-five thousand
20 or more porcine animals.

21 Sec. ____ . NEW SECTION. 266.51 ODOR CONTROL
22 RESEARCH FUND.

23 1. An odor control research fund is created as a
24 separate fund in the state treasury under the control
25 of Iowa state university. The fund consists of moneys
26 from an assessment and moneys as provided in this
27 division, and any other contributions from public or
28 private sources.

29 2. Moneys in the fund are appropriated to Iowa
30 state university for purposes of supporting research
31 relating to methods to reduce and eliminate odor
32 created by porcine animals, including but not limited
33 to manure in confinement feeding operation structures,
34 or as applied to land. Moneys in the fund shall not
35 be subject to or expended for any other purpose.

36 3. The treasurer of state shall act as custodian
37 of the fund and amounts contained in the fund shall be
38 expended as directed by Iowa state university.

39 4. The treasurer of state may invest the moneys
40 deposited into the fund. Section 8.33 does not apply
41 to moneys deposited into the fund. Notwithstanding
42 section 12C.7, interest or earnings on investments or
43 time deposits of the moneys in the fund shall be
44 credited to the fund. The fund shall be administered
45 by Iowa state university which shall make expenditures
46 from the fund consistent with the purposes set out in
47 this section. The moneys in the fund shall be
48 disbursed upon warrants drawn by the director of
49 revenue and finance pursuant to the order of the
50 university. The auditor of state shall regularly

S-5222

S-5222

Page 2

1 perform audits of the fund.

2 Sec. ____ . NEW SECTION. 266.52 ASSESSMENT.

3 There shall be an assessment on the sale of porcine
4 animals. The amount of the assessment shall be two
5 cents of the gross sale price of a porcine animal for
6 deposit in the odor control research fund each fiscal
7 year as provided in this division. The assessment
8 shall be deducted by the first purchaser from the
9 price paid to the producer. The first purchaser, at
10 the time of sale, shall make and deliver to the seller
11 an invoice for each purchase showing the names and
12 addresses of the producer and the first purchaser, the
13 number and kind of animals sold, the date of sale, and
14 the assessment made on the sale. The first purchaser
15 shall pay an assessment to the department or its
16 designated agent at a time prescribed by the
17 department, but not later than the last day of the
18 month following the month in which the porcine animal
19 was purchased.

20 Sec. ____ . NEW SECTION. 266.53 REPORT.

21 Iowa state university shall prepare and submit a
22 report to the governor, the department of revenue and
23 finance, and the general assembly not later than March
24 1 of each year, summarizing the activities of the
25 university under this chapter. The university, in
26 cooperation with the department of natural resources,
27 shall conduct an annual survey of producer-supported
28 pilot projects under section 266.54. The report shall
29 analyze approaches which promise to successfully
30 reduce or eliminate swine odor, and all income,
31 expenses, and other relevant information concerning
32 moneys deposited in the odor control research fund
33 appropriated and expended during the previous fiscal
34 year under the provisions of this division.

35 Sec. ____ . NEW SECTION. 266.54 PRODUCER-SPONSORED
36 PROJECTS.

37 Each producer shall annually support projects
38 designed to reduce and eliminate odor created by
39 porcine animals confined by the producer. The amount
40 expended each year by the producer to support the
41 projects shall be at least equal to the total number
42 or porcine animals confined by the producer during a
43 calendar year multiplied by three cents. Two or more
44 producers may cooperate in order to carry out the
45 projects.

46 Sec. ____ . NEW SECTION. 266.55 PENALTY.

47 A person who violates or assists in the violation
48 of section 266.52 is guilty of a simple misdemeanor.

49 Sec. ____ . NEW SECTION. 266.56 REPEAL.

50 This division is repealed on June 30, 2001.

S-5222

S-5222

Page 3

1 However, the odor control research fund shall continue
2 to exist and Iowa state university shall continue to
3 perform research as provided in this division until
4 remaining moneys in the fund have been expended."
5 2. By renumbering as necessary.

By BERL E. PRIEBE
STEWART IVERSON, JR.
RANDAL J. GIANNETTO

S-5222 FILED MARCH 6, 1996
RULED OUT OF ORDER

(p. 669)

SENATE FILE 2037

S-5223

1 Amend Senate File 2037 as follows:
2 1. Page 1, by inserting before line 29 the
3 following:
4 "Sec. . NEW SECTION. 331.309 CONFINEMENT
5 FEEDING OPERATIONS -- SITING ORDINANCE.
6 1. As used in this section:
7 a. "Animal feeding operation structure" means the
8 same as defined in section 455B.161.
9 b. "Animal weight capacity" means the same as
10 defined in section 455B.161.
11 c. "Confinement feeding operation" means the same
12 as defined in section 455B.161.
13 2. a. Notwithstanding section 335.2, a county may
14 adopt a confinement feeding operations siting
15 ordinance, pursuant to section 331.302. The purpose
16 of the ordinance shall be to approve the siting of a
17 confinement feeding operation regardless of whether
18 the county has adopted an ordinance under chapter 335
19 or regardless of the classification of the confinement
20 feeding operation. The ordinance shall provide
21 authority to a county to approve the site of the
22 construction or expansion of a confinement feeding
23 operation, including confinement feeding operation
24 buildings and related animal feeding operation
25 structures in order to preserve and protect natural
26 resources, including water sources and fragile
27 environmental locations; lessen congestion and
28 overcrowding of confinement feeding operations,
29 especially near cities; and to protect the health and
30 welfare of the public.
31 b. The ordinance shall provide for a method and
32 procedure required to approve the site. In
33 administering the ordinance, the county shall
34 establish a confinement feeding operations siting
35 commission which shall review each proposal for the
36 construction or expansion of a confinement feeding
37 operation, and recommend to the county board of
38 supervisors that the board approve or disapprove the
39 proposal. The board shall appoint five members of the
40 commission. Four members shall not reside in a city,
41 and one member shall reside in a city. At least three
42 members shall be or have been actively engaged in
43 animal agriculture. The commission shall make its
44 recommendation to the board within forty-five days
45 from the date that the board receives a complete
46 proposal. The board shall approve or disapprove a
47 proposal within forty-five days from the date that the
48 board receives the commission's recommendation.
49 c. A confinement feeding operations siting
50 ordinance shall not apply to a confinement feeding

S-5223

-1-

SENATE FILE 2037

S-5207

1 Amend Senate File 2037 as follows:

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

4 "Section 1. Section 335.2, Code 1995, is amended
5 to read as follows:

6 335.2 FARMS, AGRICULTURAL USES EXEMPT.

7 1. As used in this section:

8 a. "Animal feeding operation" means a lot, yard,
9 corral, building, or other area in which animals are
10 confined and fed and maintained for forty-five days or
11 more in any twelve-month period, and all structures
12 used for the storage of manure from animals in the
13 operation. Two or more animal feeding operations
14 under common ownership or management are deemed to be
15 a single animal feeding operation if they are adjacent
16 or utilize a common system for manure storage. An
17 animal feeding operation does not include a livestock
18 market.

19 b. "Agricultural purpose" means any use connected
20 or related to farming.

21 c. "Confinement feeding operation" means an animal
22 feeding operation in which animals are confined to
23 areas which are totally roofed.

24 d. "Farming" means the same as defined in section
25 9H.1.

26 ~~2. Except to-the-extent-required-to-implement~~
27 ~~section-335-277,-no as provided in this section, an~~
28 ~~ordinance adopted under this chapter applies shall not~~
29 ~~apply to land, farm including houses, farm barns, farm~~
30 ~~outbuildings or other buildings or structures located~~
31 ~~on the land, which are is primarily adapted, by reason~~
32 ~~of nature and area, for use-for an agricultural~~
33 ~~purposes purpose, while so used. However,-the~~
34 ~~ordinances-may-apply-to-any~~

35 3. If the owner of the farming operation is
36 engaged in a confinement feeding operation, the
37 farming operation must include a sufficient number of
38 acres to be capable of feeding at least twenty percent
39 of all animals confined in the confinement feeding
40 operation at any time, as determined by the county
41 board of supervisors in the county where the farming
42 operation is located. The feed must originate on land
43 located not more than fifty miles from the site of the
44 confinement feeding operation. In determining whether
45 the farming operation is capable of feeding the
46 animals, the county board of supervisors may provide
47 that the confinement feeding operation is not required
48 to satisfy the requirement of this subsection, if the
49 confinement feeding operation meets any one of the
50 following criteria:

S-5207

S-5207

Page 2

1 a. Has an animal weight capacity of two hundred
2 thousand pounds or less for animals other than bovine,
3 or four hundred thousand pounds or less for bovine.
4 The animal weight capacity shall be the product of
5 multiplying the maximum number of animals confined in
6 the confinement feeding operation at any one time by
7 the average weight during a production cycle.

8 b. Is operated for experimental purposes by Iowa
9 state university's cooperative extension service in
10 agriculture and home economics, or by a 4-H or future
11 farmers of America organization.

12 c. Is owned and operated by a person who is
13 related as spouse, parent, grandparent, lineal
14 ascendant of a grandparent or spouse, or lineal
15 descendant of a grandparent or spouse to a person
16 engaged in farming who owns enough acres of land to
17 satisfy the requirement of this subsection.

18 4. This section shall not apply to either of the
19 following:

20 a. An ordinance required to implement an
21 agricultural preservation ordinance, as provided in
22 section 335.27.

23 b. A structure, building, dam, obstruction,
24 deposit or excavation in or on the flood plains of any
25 a river or stream."

By JIM LIND

S-5207 FILED MARCH 5, 1996

LOST (p.633)

SENATE FILE 2037

S-5208

1 Amend the amendment, S-5201, to Senate File 2037,
2 as follows:
3 1. Page 1, lines 34 and 35, by striking the words
4 "A member shall not reside in a city."

By ROD HALVORSON

S-5208 FILED MARCH 5, 1996

RULED OUT OF ORDER

(p.634)

SENATE FILE 2037

S-5204

1 Amend Senate File 2037 as follows:

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

4 "Section 1. NEW SECTION. 103A.7A SWINE
5 CONFINEMENT FEEDING OPERATION STRUCTURES -- MODEL
6 CODE.

7 The commissioner shall establish a model building
8 code for confinement swine feeding operation
9 structures required to obtain a license as provided in
10 section 455B.173, for use by counties in amending
11 their building codes.

12 Sec. 2. Section 137.6, Code 1995, is amended by
13 adding the following new subsection:

14 NEW SUBSECTION. 6. Monitor drinking water wells
15 which exist in close proximity to animal feeding
16 operations as provided by the state department
17 pursuant to section 455B.201.

18 Sec. 3. Section 204.5, unnumbered paragraph 1,
19 Code Supplement 1995, is amended to read as follows:

20 A county which has acquired real estate containing
21 a confinement-feeding-operation manure storage
22 structure or egg washwater storage structure, as
23 defined in section 455B.161, following the nonpayment
24 of taxes pursuant to section 446.19, may clean up the
25 site, including removing and disposing of manure at
26 any time. The county may seek reimbursement including
27 by bringing an action for the costs of the removal and
28 disposal from the person abandoning the real estate.

29 Sec. 4. Section 331.304, subsection 3, paragraph
30 b, Code 1995, is amended to read as follows:

31 b. A Except as otherwise provided in this
32 paragraph, a county building code shall not apply to
33 farm houses, barns, outbuildings, or other farm
34 buildings or structures which are primarily adapted
35 for use for an agricultural purposes purpose, while so
36 used or under construction for that use. The county
37 building code may apply to a confinement swine feeding
38 operation structure constructed or expanded on or
39 after the effective date of this Act, which is
40 required to obtain a construction permit as provided
41 in section 455B.173.

42 Sec. 5. NEW SECTION. 364.25 CONFINEMENT SWINE
43 FEEDING OPERATIONS.

44 A city may adopt an ordinance which prohibits the
45 construction or expansion of a confinement swine
46 feeding operation structure required to obtain a
47 construction permit pursuant to section 455B.173 from
48 being constructed or expanded after the effective date
49 of this Act in an area within two miles beyond the
50 limits of the city, regardless of whether a county

S-5204

-1-

S-5204

Page 2

1 zoning ordinance exists or whether the city has
2 adopted an ordinance which extends its powers within
3 the area as provided in section 414.23. The ordinance
4 adopted by the city shall describe in general terms
5 the area in which the city is prohibiting construction
6 or expansion of the confinement swine feeding
7 operation or a confinement swine feeding operation
8 structure.

9 Sec. 6. Section 414.23, Code 1995, is amended to
10 read as follows:

11 414.23 EXTENDING BEYOND CITY LIMITS.

12 1. a. The powers granted by this chapter may be
13 extended by ordinance by any a city to the
14 unincorporated area up to two miles beyond the limits
15 of such the city, except for ~~those areas~~ any part of
16 the area located within a county where a county zoning
17 ordinance exists. The ordinance adopted by the city
18 shall describe in general terms the area to be
19 included in the area subject to the city ordinance.
20 ~~The exemption from regulation granted by section 335.2~~
21 ~~to property used for agricultural purposes shall apply~~
22 ~~to such unincorporated area.~~ If the limits of any
23 such the city are at any place less than four miles
24 distant from the limits of any other city which has
25 extended or thereafter extends its zoning jurisdiction
26 under this section, then at such time the powers
27 herein granted under this subsection shall extend to a
28 line equidistant between the limits of said the
29 cities.

30 b. A municipality city, during the time its zoning
31 jurisdiction is extended under this section
32 subsection, shall increase the size of its planning
33 and zoning commission and its board of adjustment each
34 by two members. The additional members shall be
35 residents of the area outside the city limits over
36 which the zoning jurisdiction is extended. ~~They~~ The
37 additional members shall be appointed by the board of
38 supervisors of the county in which such the extended
39 area is located and for the same terms of office and
40 have the same rights, privileges, and duties as the
41 other members of ~~each of said~~ the respective bodies of
42 the additional members.

43 c. Property owners affected by such zoning
44 regulations adopted pursuant to this subsection shall
45 have the same rights of hearing, protest, and appeal
46 as those property owners residing within the
47 municipality city exercising this power those rights.

48 d. Except as provided in subsection 2, the
49 exemption from regulation granted by section 335.2 to
50 property used for agricultural operations shall apply

S-5204

-2-

S-5204

Page 3

1 to the unincorporated area over which the city is
2 exercising its power.
3 ~~e. Whenever a county in which this power is being~~
4 ~~exercised by a municipality~~ Except as provided in
5 subsection 2, if a county adopts a county zoning
6 ordinance, the power exercised by the municipality
7 city and the specific regulations and districts
8 thereunder established by the city under this
9 subsection shall be terminated within three months of
10 the establishment of the administrative authority for
11 county zoning, or at such date as mutually agreed upon
12 by the municipality city and county.

13 2. A city may adopt an ordinance under this
14 chapter which prohibits the construction or expansion
15 of a confinement swine feeding operation structure
16 required to obtain a construction permit as provided
17 in section 455B.173, if the confinement swine feeding
18 operation structure is to be constructed or expanded
19 after the effective date of this Act, or which
20 regulates a confinement swine feeding operation
21 structure. The ordinance shall apply to the
22 unincorporated area where the city may exercise its
23 jurisdiction beyond the limits of the city pursuant to
24 section 414.23, regardless of whether a county zoning
25 ordinance exists, or whether an ordinance extends its
26 powers within the area under subsection 1. The
27 ordinance adopted by the city under this subsection
28 shall describe in general terms the area over which
29 the city is exercising its jurisdiction.

30 Sec. 7. Section 455B.161, subsection 1, paragraph
31 a, Code Supplement 1995, is amended to read as
32 follows:

33 a. ~~A confinement feeding operation structure.~~ An
34 earthen manure storage basin, formed manure storage
35 structure, egg washwater storage structure, or
36 confinement building.

37 Sec. 8. Section 455B.161, subsection 3, Code
38 Supplement 1995, is amended to read as follows:

39 3. a. "Animal feeding operation" means a lot,
40 yard, corral, building, or other area in which animals
41 are confined and fed and maintained for forty-five
42 days or more in any twelve-month period, and all
43 structures used for the storage of manure from animals
44 in the operation.

45 b. ~~Two or more animal feeding operations under~~
46 ~~common ownership or management~~ are deemed to be a
47 single animal feeding operation ~~if they are adjacent~~
48 as follows:

49 (1) If the animal feeding operations do not
50 include a confinement swine feeding operation, the

S-5204

-3-

S-5204

Page 4

1 animal feeding operations must be both of the
2 following:

3 (a) Under common ownership or management.

4 (b) Adjacent or utilize a common system for manure
5 storage.

6 (2) If the animal feeding operations include a
7 confinement swine feeding operation, either of the
8 following must apply to the animal feeding operations:

9 (a) They must utilize a common system for manure
10 storage.

11 (b) They must be separated by more than two
12 thousand five hundred feet, unless the combined animal
13 weight capacity of the animal feeding operations is
14 two hundred thousand pounds or less.

15 c. An animal feeding operation does not include a
16 livestock market.

17 Sec. 9. Section 455B.161, subsection 4, Code
18 Supplement 1995, is amended to read as follows:

19 4. "Animal feeding operation structure" means an
20 anaerobic lagoon, earthen manure storage basin, formed
21 manure storage structure, egg washwater storage
22 structure, or confinement ~~feeding-operation-structure~~
23 building.

24 Sec. 10. Section 455B.161, subsection 9, Code
25 Supplement 1995, is amended by striking the
26 subsection.

27 Sec. 11. Section 455B.161, Code Supplement 1995,
28 is amended by adding the following new subsections:

29 NEW SUBSECTION. 9A. "Confinement swine feeding
30 operation" means a confinement feeding operation in
31 which swine are confined and fed.

32 NEW SUBSECTION. 9B. "Confinement swine feeding
33 operation structure" means a confinement building or a
34 formed swine manure storage structure.

35 Sec. 12. Section 455B.161, subsection 14, Code
36 Supplement 1995, is amended to read as follows:

37 14. "Formed manure storage structure" means a
38 manure storage structure, either covered or uncovered,
39 used to store manure from a confinement feeding
40 operation, which has walls and a floor constructed of
41 poured concrete, concrete block, wood, steel, or
42 similar materials.

43 Sec. 13. Section 455B.161, Code Supplement 1995,
44 is amended by adding the following new subsections:

45 NEW SUBSECTION. 14A. "Formed swine manure storage
46 structure" means a formed manure storage structure
47 used to store swine manure, which has walls and a
48 floor constructed of poured concrete.

49 NEW SUBSECTION. 16A. "Manure storage structure"
50 means any structure used to store manure from an

S-5204

-4-

S-5204

Page 5

1 animal feeding operation, including an anaerobic
 2 lagoon, earthen manure storage basin, or formed manure
 3 storage structure.

4 Sec. 14. Section 455B.162, unnumbered paragraph 1,
 5 Code Supplement 1995, is amended to read as follows:

6 1. The Except as provided in subsection 1A, the
 7 following shall apply to animal feeding operation
 8 structures constructed on or after May 31, 1995; to
 9 the expansion of structures constructed on or after
 10 May 31, 1995; or, except as provided in section
 11 455B.163, to the expansion of structures constructed
 12 prior to May 31, 1995:

13 Sec. 15. Section 455B.162, subsection 1,
 14 unnumbered paragraph 1, Code Supplement 1995, is
 15 amended by striking the unnumbered paragraph.

16 Sec. 16. Section 455B.162, Code Supplement 1995,
 17 is amended by adding the following new subsection:

18 NEW SUBSECTION. 1A. The following shall apply to
 19 confinement swine feeding operation structures
 20 constructed on or after the effective date of this
 21 Act, if the confinement swine feeding operations are
 22 established on or after the effective date of this
 23 Act:

24 a. The following table represents the minimum
 25 separation distance in feet required between a
 26 confinement swine feeding operation structure and a
 27 residence not owned by the owner of the confinement
 28 swine feeding operation, or a commercial enterprise,
 29 bona fide religious institution, or an educational
 30 institution:

| | Minimum separation distance in feet for operations having an animal weight capacity of less than 625,000 pounds | Minimum separation distance in feet for operations having an animal weight capacity of 625,000 or more pounds but less than 1,250,000 pounds | Minimum separation distance in feet for operations having an animal weight capacity of 1,250,000 or more pounds |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| 31 | | | |
| 32 | | | |
| 33 | | | |
| 34 | | | |
| 35 | | | |
| 36 | | | |
| 37 | | | |
| 38 | | | |
| 39 | | | |
| 40 | | | |
| 41 | | | |
| 42 | | | |
| 43 | | | |
| 44 | | | |

45 Type of
 46 structure

47
 48 Uncovered
 49 formed
 50 manure

S-5204

S-5204

Page 6

| | | | | |
|---|-----------|-------|-------|-------|
| 1 | storage | | | |
| 2 | structure | 2,250 | 2,750 | 3,250 |
| 3 | Covered | | | |
| 4 | formed | | | |
| 5 | manure | | | |
| 6 | storage | | | |
| 7 | structure | 1,900 | 2,250 | 2,750 |

8 b. The following table represents the minimum
 9 separation distance in feet required between
 10 confinement swine feeding operation structures and a
 11 public use area or a residence not owned by the owner
 12 of the confinement swine feeding operation, a
 13 commercial enterprise, a bona fide religious
 14 institution, or an educational institution located
 15 within the corporate limits of a city:

| 16 | Minimum | Minimum | Minimum |
|----|---------------|---------------|---------------|
| 17 | separation | separation | separation |
| 18 | distance | distance | distance |
| 19 | in feet | in feet | in feet |
| 20 | for | for | for |
| 21 | operations | operations | operations |
| 22 | having an | having an | having an |
| 23 | animal weight | animal weight | animal weight |
| 24 | weight | capacity of | capacity of |
| 25 | capacity of | 625,000 or | 1,250,000 or |
| 26 | less than | more pounds | more pounds |
| 27 | 625,000 | but less than | |
| 28 | pounds | 1,250,000 | |
| 29 | | pounds | |

30 Type of
 31 structure

32
 33 Confinement
 34 swine
 35 feeding
 36 operation

| | | | | |
|----|-----------|-------|-------|-------|
| 37 | structure | 2,500 | 3,025 | 3,750 |
|----|-----------|-------|-------|-------|

38 Sec. 17. Section 455B.165, subsections 1, 2, and
 39 4, Code Supplement 1995, are amended to read as
 40 follows:

41 1. A-confinement An animal feeding operation
 42 structure, other than an anaerobic lagoon, which
 43 provides for the storage of manure exclusively in a
 44 dry form.

45 2. A-confinement An animal feeding operation
 46 structure, other than an anaerobic lagoon or earthen
 47 manure storage basin, if the structure is part of a
 48 confinement feeding operation which qualifies as a
 49 small animal feeding operation.

50 ~~4.--An-animal-feeding-operation-which-is~~

S-5204

S-5204

Page 7

1 constructed or expanded within the corporate limits of
2 a city, or the area within a separation distance
3 required pursuant to this part, if the city approves a
4 waiver which shall be memorialized in writing. The
5 written waiver becomes effective only upon recording
6 the waiver in the office of the recorder of deeds of
7 the county in which the benefited land is located.
8 The filed waiver shall preclude enforcement by the
9 state of this part as it relates to the animal feeding
10 operation structure. However, this subsection shall
11 not affect a separation distance required between
12 residences, educational institutions, commercial
13 enterprises, bona fide religious institutions, or
14 public use areas, as provided in this part.

15 4. A city which adopts an ordinance on or after
16 the effective date of this Act which prohibits the
17 construction or expansion of a confinement feeding
18 operation structure or which provides a different
19 separation distance requirement than provided for in
20 section 455B.162. The ordinance may apply within the
21 corporate limits of the city, or within the area where
22 the city may exercise its jurisdiction beyond the
23 corporate limits of the city as provided in section
24 364.25 or 414.23.

25 Sec. 18. Section 455B.171, subsection 2, Code
26 Supplement 1995, is amended to read as follows:

27 2. a. "Animal feeding operation" means a lot,
28 yard, corral, building, or other area in which animals
29 are confined and fed and maintained for forty-five
30 days or more in any twelve-month period, and all
31 structures used for the storage of manure from animals
32 in the animal feeding operation.

33 b. Two or more animal feeding operations under
34 common ownership or management are deemed to be a
35 single animal feeding operation if they are adjacent
36 as follows:

37 (1) If the animal feeding operations do not
38 include a confinement swine feeding operation, the
39 animal feeding operations must be both of the
40 following:

41 (a) Under common ownership or management.

42 (b) Adjacent or utilize a common area or system
43 for manure disposal.

44 (2) If the animal feeding operations include a
45 confinement swine feeding operation, either of the
46 following must apply to the animal feeding operations:

47 (a) They must utilize a common system or area for
48 manure storage.

49 (b) They must be separated by more than two
50 thousand five hundred feet, unless the combined animal

S-5204

-7-

S-5204

Page 8

1 weight capacity of the animal feeding operations is
2 two hundred thousand pounds or less.

3 c. An animal feeding operation does not include a
4 livestock market as defined in section 455B.161.

5 Sec. 19. Section 455B.171, Code Supplement 1995,
6 is amended by adding the following new subsections:

7 NEW SUBSECTION. 4A. "Confinement swine feeding
8 operation" means the same as defined in section
9 455B.161.

10 NEW SUBSECTION. 4B. "Confinement swine feeding
11 operation structure" means the same as defined in
12 section 455B.161.

13 NEW SUBSECTION. 9A. "Formed manure storage
14 structure" means the same as defined in section
15 455B.161.

16 NEW SUBSECTION. 9B. "Formed swine manure storage
17 structure" means the same as defined in section
18 455B.161.

19 NEW SUBSECTION. 12A. "Manure storage structure"
20 means the same as defined in section 455B.161.

21 Sec. 20. Section 455B.173, subsection 13, Code
22 Supplement 1995, is amended to read as follows:

23 13. a. Adopt, modify, or repeal rules relating to
24 the construction or operation of animal feeding
25 operations. The rules shall include, but are not
26 limited to, minimum manure control requirements,
27 requirements for obtaining permits, and departmental
28 evaluations of animal feeding operations. The
29 department shall require that a person obtain a permit
30 for the construction of a confinement swine feeding
31 operation structure. The department shall approve or
32 disapprove a permit for a confinement swine feeding
33 operation structure based upon the most current
34 available standards for the construction of structures
35 of a similar size. However, the department shall not
36 require that a person obtain a permit for the
37 construction of an animal feeding operation structure,
38 if the structure is part of a small animal feeding
39 operation.

40 b. The department shall collect an indemnity fee
41 as provided in section 204.3 prior to the issuance of
42 a construction permit. The department shall deposit
43 moneys collected from indemnity fees in the manure
44 storage indemnity fund created in section 204.2.

45 c. The department shall not approve a permit for
46 the construction of a confinement swine feeding
47 operation structure or three or more other animal
48 feeding operation structures, unless the applicant
49 files a statement approved by a professional engineer
50 registered pursuant to chapter 542B certifying that

S-5204

-8-

S-5204

Page 9

1 the construction of the ~~animal-feeding-operation~~
2 structure will not impede the drainage through
3 established drainage tile lines which cross property
4 boundary lines unless measures are taken to
5 reestablish the drainage prior to completion of
6 construction. ~~The department shall deposit moneys~~
7 ~~collected in indemnity fees in the manure storage~~
8 ~~indemnity fund created in section 204.2.~~ The permit
9 for a confinement swine feeding operation structure
10 shall be conditional upon the removal of any drainage
11 tile located within fifty feet of the structure prior
12 to its operation, according to rules adopted by the
13 department, which shall provide for the removal,
14 capping, and rerouting of the drainage tile.

15 d. The department shall issue a permit for an
16 animal feeding operation, if an application is
17 submitted according to procedures required by the
18 department, and the application meets standards
19 established by the department, regardless of whether
20 the animal feeding operation is required to obtain
21 such a permit. An applicant for a construction permit
22 shall not begin construction at the location of a site
23 planned for the construction of an animal feeding
24 operation structure, until the person has been granted
25 a permit for the construction of the structure by the
26 department. The department shall make a determination
27 regarding the approval or denial of a permit within
28 sixty days from the date that the department receives
29 a completed application for a permit. However, the
30 sixty-day requirement shall not apply to an
31 application, if the applicant is not required to
32 obtain a permit in order to construct an animal
33 feeding operation structure or to operate an animal
34 feeding operation. The department shall deliver a
35 copy or require the applicant to deliver a copy of the
36 application for a construction permit and the
37 applicant's manure management plan as provided in
38 section 455B.203, for a confinement swine feeding
39 operation, to the county board of supervisors in the
40 county where the confinement feeding operation or
41 confinement related animal feeding operation structure
42 subject to the permit is to be located. The board may
43 file the application and the manure management plan
44 for a confinement swine feeding operation with the
45 county recorder, and require that the applicant submit
46 a filing fee. The department shall not approve the
47 application or issue a construction permit for an
48 animal feeding operation structure until thirty days
49 following delivery of the application to the county
50 board of supervisors. If the construction permit is

S-5204

-9-

S-5204

Page 10

1 for an animal feeding operation structure for which a
2 construction permit is required, the county may submit
3 comments to the department regarding compliance by the
4 applicant with the legal requirements for the
5 construction of the animal feeding operation structure
6 as provided in this chapter, and rules adopted by the
7 department pursuant to this chapter. The department
8 shall consider comments from the county board of
9 supervisors, regarding-compliance-by-the-applicant
10 with-the-legal-requirements-for-the-construction-of
11 the-confinement-feeding-operation-structure-as
12 provided-in-this-chapter,-and-rules-adopted-by-the
13 department-pursuant-to-this-chapter, if the comments
14 are delivered to the department within fourteen days
15 after receipt of the application by the county board
16 of supervisors. However, if the construction permit
17 is for a confinement swine feeding operation
18 structure, the department shall not issue the permit,
19 if the county board of supervisors submits an
20 objection to the department within thirty days after
21 receipt of the application by the county board of
22 supervisors. The objection must be based upon a
23 threat to environmental quality or the public health
24 that the board determines may be caused by the
25 location or design of the confinement swine feeding
26 operation structure.

27 e. Prior to granting a permit to a person for the
28 construction of an animal feeding operation, the
29 department may require the installation and operation
30 of a hydrological monitoring system for an exclusively
31 earthen manure storage structure, if, after an on-site
32 inspection, the department determines that the site
33 presents an extraordinary potential for groundwater
34 pollution. The department shall require the
35 installation and operation of a hydrological
36 monitoring system for a manure storage structure which
37 is part of a confinement feeding operation prior to
38 issuing a permit to the confinement feeding operation,
39 unless after an on-site inspection, the department
40 determines that no potential for groundwater pollution
41 exists.

42 f. A person shall not obtain a permit for the
43 construction of a confinement feeding operation,
44 unless the person develops a manure management plan as
45 provided in section 455B.203.

46 g. During each major stage of construction, the
47 department shall conduct an inspection of the
48 confinement swine feeding operation structure subject
49 to a permit required to be approved by the department,
50 in order to ensure that a confinement swine feeding

S-5204

-10-

S-5204

Page 11

1 operation structure is being constructed according to
2 design requirements approved by the department. A
3 confinement swine feeding operation structure shall
4 not operate unless the department conducts a final
5 inspection and certifies that the confinement swine
6 feeding operation structure is constructed according
7 to requirements approved by the department.

8 h. The department shall not issue a permit to a
9 person under this subsection if an enforcement action
10 by the department, relating to a violation of this
11 chapter concerning a confinement feeding operation in
12 which the person has an interest, is pending. The
13 department shall not issue a permit to a person under
14 this subsection for five years after the date of the
15 last violation committed by a person or confinement
16 feeding operation in which the person holds a
17 controlling interest during which the person or
18 operation was classified as a habitual violator under
19 section 455B.191. The department shall conduct an
20 annual review inspection of each confinement feeding
21 operation which is a habitual violator and each
22 confinement feeding operation in which a habitual
23 violator holds a controlling interest. The department
24 shall notify persons classified as habitual violators
25 of their classification, additional restrictions
26 imposed upon the persons pursuant to the
27 classification, and special civil penalties that may
28 be imposed upon the persons. The notice shall be sent
29 to the persons by certified mail.

30 Sec. 21. Section 455B.191, subsection 7,
31 paragraphs a through d, Code Supplement 1995, are
32 amended to read as follows:

33 a. The construction or operation of ~~a~~-confinement
34 ~~an animal~~ feeding operation structure ~~or-anaerobic~~
35 ~~lagoon~~ which is part of a confinement feeding
36 operation, or the installation or use of a related
37 pollution control device or practice, for which the
38 person must obtain a permit, in violation of this
39 chapter, or rules adopted by the department, including
40 the terms or conditions of the permit.

41 b. Intentionally making a false statement or
42 misrepresenting information to the department as part
43 of an application for a construction permit for a
44 ~~confinement~~ an animal feeding operation structure ~~or~~
45 ~~anaerobic-lagoon~~ which is part of a confinement
46 feeding operation, or the installation of a related
47 pollution control device or practice for which the
48 person must obtain a construction permit.

49 c. Failing to obtain a permit or approval by the
50 department in violation of this chapter or

S-5204

-11-

S-5204

Page 12

1 departmental rule which requires a permit to construct
2 or operate a confinement feeding operation or use a
3 ~~confinement an animal feeding operation structure,~~
4 ~~anaerobic-lagoon,~~ or a pollution control device or
5 practice which is part of a confinement feeding
6 operation.

7 d. Operating a confinement feeding operation,
8 including ~~a-confinement an animal feeding operation~~
9 ~~structure or-anaerobic-lagoon~~ which is part of a
10 confinement feeding operation, or a related pollution
11 control device or practice, which causes pollution to
12 the waters of the state, if the pollution was caused
13 intentionally, or caused by a failure to take measures
14 required to abate the pollution which resulted from an
15 act of God.

16 Sec. 22. Section 455B.191, subsection 7, Code
17 Supplement 1995, is amended by adding the following
18 new paragraph:

19 NEW PARAGRAPH. f. To apply manure subject to a
20 manure management plan in violation of the plan, if
21 another manure management plan provides for the
22 application of manure on the same land.

23 Sec. 23. Section 455B.201, subsection 4, Code
24 Supplement 1995, is amended to read as follows:

25 4. A person shall not apply manure by spray
26 irrigation equipment, ~~except-as-provided-by-rules~~
27 ~~which-shall-be-adopted-by-the-department-pursuant-to~~
28 ~~chapter-17A.~~

29 Sec. 24. Section 455B.201, Code Supplement 1995,
30 is amended by adding the following new subsections:

31 NEW SUBSECTION. 5. On and after the effective
32 date of this Act, a person shall not construct a
33 manure storage structure which is part of a
34 confinement swine feeding operation unless the manure
35 storage structure is a formed swine manure storage
36 structure.

37 NEW SUBSECTION. 6. The department shall provide
38 for the installation and operation of a hydrological
39 monitoring system for a manure storage structure which
40 is part of a confinement feeding operation structure,
41 unless after an on-site inspection, the department
42 determines that the site presents no potential for
43 groundwater pollution.

44 NEW SUBSECTION. 7. The department shall do all of
45 the following:

46 a. Cooperate with the Iowa department of public
47 health in regularly monitoring drinking water wells
48 which are located in close proximity to animal feeding
49 operations. The monitoring may be performed by
50 employees of a county board of health in the county

S-5204

-12-

S-5204

Page 13

1 where a drinking water well is located and reported to
2 the department of natural resources as provided by the
3 Iowa department of public health.

4 b. Regularly inspect and evaluate the structural
5 integrity of manure storage structures which are part
6 of confinement swine feeding operations. The
7 department shall annually inspect and evaluate not
8 less than ten percent of all anaerobic lagoons and
9 earthen manure storage basins which are part of those
10 operations and for which a construction permit has
11 been issued by the department.

12 NEW SUBSECTION. 8. Drainage tile shall not be
13 located within fifty feet from a manure storage
14 structure which is part of a confinement swine feeding
15 operation. The department shall adopt rules for the
16 inspection, removal, capping, and rerouting of the
17 drainage tile. The owner of a confinement swine
18 feeding operation shall comply with this subsection
19 not later than July 1, 1998.

20 Sec. 25. Section 455B.203, subsection 2, paragraph
21 a, Code Supplement 1995, is amended to read as
22 follows:

23 a. Calculations necessary to determine the land
24 area required for the application of manure from a
25 confinement feeding operation ~~based-on-nitrogen-use~~
26 ~~levels~~ in order to obtain optimum crop yields
27 according to a crop schedule specified in the plan,
28 and according to requirements adopted by the
29 department, as follows:

30 (1) If the manure is produced from a confinement
31 feeding operation other than a confinement swine
32 feeding operation, the calculations shall be based on
33 nitrogen use levels.

34 (2) If the manure is produced from a confinement
35 swine feeding operation, the calculations shall be
36 based on phosphorus use levels.

37 The department shall adopt calculations required
38 under this paragraph "a" after receiving
39 recommendations from the animal agriculture consulting
40 organization provided for in 1995 Iowa Acts, chapter
41 195, section 37.

42 Sec. 26. Section 455B.203, subsection 2, Code
43 Supplement 1995, is amended by adding the following
44 new paragraph:

45 NEW PARAGRAPH. h. A written record describing
46 actions taken to determine the existence of drainage
47 tile lines, including the findings, and actions taken
48 to comply with permit requirements in section
49 455B.173, and minimum manure control requirements
50 provided in section 455B.201.

S-5204

-13-

S-5204

Page 14

1 Sec. 27. Section 455B.203, Code Supplement 1995,
2 is amended by adding the following new subsection:
3 NEW SUBSECTION. 2A. A person required to submit a
4 manure management plan shall not apply manure on the
5 land other than as provided in the manure management
6 plan.

7 Sec. 28. Section 455B.204, subsection 1,
8 unnumbered paragraph 1, Code Supplement 1995, is
9 amended to read as follows:

10 An animal feeding operation structure shall not be
11 ~~located-at-least~~ constructed or expanded less than
12 five hundred feet away from the surface intake of an
13 agricultural drainage well or known sinkhole, and at
14 ~~least~~ not less than two hundred feet away from a lake,
15 river, or stream located within the territorial limits
16 of the state, any marginal river area adjacent to the
17 state, which can support a floating vessel capable of
18 carrying one or more persons during a total of a six-
19 month period in one out of ten years, excluding
20 periods of flooding. However, no a distance
21 separation is not required between a location or
22 object and a farm pond or privately owned lake, as
23 defined in section 462A.2. A confinement swine
24 feeding operation structure shall not be constructed
25 or expanded less than five hundred feet away from a
26 drinking water well.

27 Sec. 29. Section 657.1, Code Supplement 1995, is
28 amended to read as follows:

29 657.1 NUISANCE -- WHAT CONSTITUTES -- ACTION TO
30 ABATE.

31 Whatever is injurious to health, indecent, or
32 unreasonably offensive to the senses, or an
33 obstruction to the free use of property, so as
34 essentially to unreasonably interfere with the
35 comfortable enjoyment of life or property, is a
36 nuisance, and a civil action by ordinary proceedings
37 may be brought to enjoin and abate the same and to
38 recover damages sustained on account thereof.

39 Sec. 30. Section 657.2, subsection 1, Code
40 Supplement 1995, is amended to read as follows:

41 1. The erecting, continuing, or using any building
42 or other place for the exercise of any trade,
43 employment, or manufacture, which, by occasioning
44 noxious exhalations, unreasonably offensive smells, or
45 other annoyances, becomes injurious and dangerous to
46 the health, comfort, or property of individuals or the
47 public.

48 Sec. 31. APPLICABILITY. Notwithstanding contrary
49 provisions of this Act, and except as provided in
50 section 455B.163, as enacted by 1995 Iowa Acts,

S-5204

-14-

S-5204

Page 15

1 chapter 195, section 17, with regard to the continued
2 operation of animal feeding operations constructed
3 prior to May 31, 1995, or the expansion of structures
4 constructed prior to May 31, 1995, the provisions of
5 section 455B.162, subsection 1, paragraph "a", and
6 paragraph "b", Code Supplement 1995, as enacted by
7 1995 Iowa Acts, chapter 195, section 16, shall
8 continue to apply to animal feeding operation
9 structures as defined in section 455B.161, subsection
10 4, Code Supplement 1995, as enacted by 1995 Iowa Acts,
11 chapter 195, section 15, if constructed or expanded on
12 or after May 31, 1995, but prior to the effective date
13 of this Act.

14 Sec. 32. DEPARTMENT OF NATURAL RESOURCES RULES
15 REQUIRED. The department of natural resources shall
16 adopt as rules recommended manure application
17 practices as provided in 567 IAC 65.2(1), to apply to
18 confinement swine feeding operations, unless
19 inconsistent with statute or rules required to
20 implement this Act.

21 Sec. 33. REPEAL OF NUISANCE SUIT RESTRICTION.
22 Section 657.11, Code Supplement 1995, is repealed.

23 Sec. 34. EFFECTIVE DATE. This Act, being deemed
24 of immediate importance, takes effect upon enactment."

By MARY A. LUNDBY

S-5204 FILED MARCH 5, 1996

RULED OUT OF ORDER (P. 632)

SENATE FILE 2037

S-5206

1 Amend the amendment, S-5201, to Senate File 2037 as
2 follows:

3 1. Page 1, line 36, by inserting after the word
4 "agriculture." the following: "The ordinance adopted
5 as part of this section must include provisions
6 designating parts of the county where residences may
7 be constructed and parts of the county where
8 residences shall not be constructed, in order to
9 preserve agricultural uses in the county. The county
10 shall adopt exceptions necessary for the construction
11 of residences by persons actively engaged in
12 agricultural production. An agricultural land
13 preservation ordinance enacted by the county pursuant
14 to section 335.27 shall meet the requirements of this
15 paragraph."

By BRAD BANKS

S-5206 FILED MARCH 5, 1996

RULED OUT OF ORDER

(P. 634)

SENATE FILE 2037

S-5195

1 Amend Senate File 2037 as follows:

2 1. Page 1, by inserting before line 29, the
3 following:

4 "The ordinance adopted as part of this section must
 5 include provisions designating parts of the county
 6 where residences may be constructed and parts of the
 7 county where residences shall not be constructed, in
 8 order to preserve agricultural uses in the county.
 9 The county shall adopt exceptions necessary for the
 10 construction of residences by persons actively engaged
 11 in agricultural production. An agricultural land
 12 preservation ordinance enacted by the county pursuant
 13 to section 335.27 shall meet the requirements of this
 14 paragraph."

By BRAD BANKS

S-5195 FILED MARCH 5, 1996

LOST (p.635)

SENATE FILE 2037

S-5196

1 Amend the amendment, S-5168, to Senate File 2037 as
2 follows:3 1. Page 1, line 9, by striking the word
4 "including".5 2. Page 1, by striking line 10 and inserting the
6 following: "the".

By MARY LOU FREEMAN

S-5196 FILED MARCH 5, 1996

ADOPTED (p.632)

SENATE FILE 2037

S-5197

1 Amend Senate File 2037 as follows:

2 1. Page 2, line 5, by striking the words "a
3 confinement" and inserting the following: "an
4 animal".5 2. Page 2, line 5, by inserting after the word
6 "structure" the following: "which is part of or
7 connected to a confinement feeding operation".8 3. Page 2, line 7, by inserting after the word
9 "operation." the following: "However, this paragraph
10 does not require a person to obtain a construction
11 permit to construct an animal feeding operation
12 structure which is part of or connected to and used
13 exclusively by a confinement feeding operation in
14 which only bovine or avian animals are confined."

By JOHN P. KIBBIE

S-5197 FILED MARCH 5, 1996

WITHDRAWN

(p.635)

SENATE FILE 2037

S-5201

1 Amend Senate File 2037 as follows:

2 1. Page 1, by striking lines 1 through 28 and
3 inserting the following:

4 "Sec. ____ . NEW SECTION. 331.309 CONFINEMENT
5 FEEDING OPERATIONS -- SITING ORDINANCE.

6 1. As used in this section:

7 a. "Animal feeding operation structure" means the
8 same as defined in section 455B.161.

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

11 c. "Confinement feeding operation" means the same
12 as defined in section 455B.161.

13 2. Notwithstanding section 335.2, a county may
14 adopt a confinement feeding operations siting
15 ordinance, pursuant to section 331.302. The purpose
16 of the ordinance shall be to provide authority to a
17 county to approve the site of the construction or
18 expansion of a confinement feeding operation,
19 including confinement feeding operation buildings and
20 related animal feeding operation structures in order
21 to preserve and protect natural resources, including
22 water sources and fragile environmental locations;
23 lessen congestion and overcrowding of confinement
24 feeding operations, especially near cities; and to
25 protect the health and welfare of the public. The
26 ordinance shall provide for a method and procedure
27 required to approve the site. In administering the
28 ordinance, the county shall establish a confinement
29 feeding operations siting commission which shall
30 review each proposal for the construction or expansion
31 of a confinement feeding operation, and recommend to
32 the county board of supervisors that the board approve
33 or disapprove the proposal. The board shall appoint
34 five members of the commission. A member shall not
35 reside in a city. At least three members shall be or
36 have been actively engaged in animal agriculture. A
37 confinement feeding operations siting ordinance shall
38 not apply to a confinement feeding operation, if
39 either of the following apply:

40 a. Only bovine or poultry are confined in the
41 confinement feeding operation.

42 b. The confinement feeding operation has an animal
43 weight capacity of less than three hundred thousand
44 pounds."

45 2. Title page, line 2, by striking the words
46 "county zoning" and inserting the following:

47 "siting".

48 3. By renumbering as necessary.

By EUGENE FRAISE
BILL FINK
EMIL J. HUSAK
PATTY JUDGE
JOHN P. KIBBIE

MARY A. LUNDBY
ANDY MCKEAN
JOHN W. JENSEN
TOM FLYNN
ALBERT G. SORENSEN

S-5201 FILED MARCH 5, 1996
RULED OUT OF ORDER

(p. 624)

SENATE FILE 2037

S-5203

1 Amend Senate File 2037 as follows:
2 1. Page 2, line 5, by striking the words "a
3 confinement" and inserting the following: "an
4 animal".
5 2. Page 2, line 5, by inserting after the word
6 "structure" the following: "which is part of or
7 connected to a confinement feeding operation".
8 3. Page 2, line 7, by inserting after the word
9 "operation." the following: "However, unless
10 otherwise required by departmental rule, this
11 paragraph does not require a person to obtain a
12 construction permit to construct an animal feeding
13 operation structure which is part of or connected to
14 and used exclusively by a confinement feeding
15 operation in which only bovine or avian animals are
16 confined."

By JOHN P. KIBBIE

S-5203 FILED MARCH 5, 1996
DEFERRED

Adopted
3-6-96

(p. 669)

Motion to R/c lost
3-6-96

SENATE FILE 2037

S-5188

1 Amend Senate File 2037 as follows:

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

4 "Section 1. Section 335.2, Code 1995, is amended
5 to read as follows:

6 335.2 FARMS AGRICULTURAL PURPOSES EXEMPT.

7 1. As used in this section:

8 a. "Agricultural purpose" means any use connected
9 or related to farming as defined in section 9H.1.

10 b. "Animal feeding operation" and "animal feeding
11 operation structure" mean the same as defined in
12 section 455B.161.

13 c. "Manure storage structure" means a structure
14 used to store manure produced by an animal feeding
15 operation and includes an anaerobic lagoon, earthen
16 manure storage basin, or formed manure storage
17 structure, as defined in section 455B.161.

18 2. ~~Except to the extent required to implement as~~
19 ~~provided in this section, 335.27, no~~ an ordinance
20 adopted under this chapter ~~applies~~ shall not apply to
21 land, ~~farm~~ including houses, ~~farm~~ barns, ~~farm~~
22 outbuildings, ~~or and~~ other buildings or structures,
23 which ~~are~~ is primarily adapted, by reason of nature
24 and area, for ~~use for~~ an agricultural purposes
25 purpose, while so used. ~~However, the ordinances may~~
26 ~~apply to any~~

27 3. Subsection 2 shall not prohibit an ordinance
28 adopted pursuant to this chapter if the ordinance
29 applies to either of the following:

30 a. A structure, building, dam, obstruction,
31 deposit or excavation in or on the flood plains of any
32 river or stream.

33 b. The implementation of an agricultural
34 preservation ordinance, as provided in section 335.27.

35 4. a. Subsection 2 shall not prohibit an
36 ordinance adopted pursuant to this subsection which
37 applies to animal feeding operations, including animal
38 feeding operation structures, constructed or expanded
39 after the effective date of this Act.

40 b. The county board of supervisors shall not adopt
41 the ordinance until the board conducts a county-wide
42 nitrogen use analysis as provided for in this
43 subsection. The methodology employed in performing
44 the analysis must be approved by the department of
45 natural resources according to procedures adopted by
46 the department after consultation with the animal
47 agriculture consulting organization as provided in
48 1995 Iowa Acts, chapter 195, section 37.

49 c. The analysis must find that the total nitrogen
50 content of manure that is expected to be applied to

S-5188

S-5188

Page 2

1 land in the county and originating from manure storage
2 structures located in the county, during the course of
3 the next twelve-month period, exceeds the expected
4 total nitrogen use necessary to obtain optimum crop
5 yields on land used for producing crops in the county.
6 The resulting value shall then be corrected for
7 expected nitrogen loss. Information to complete the
8 required calculations must account for the soil types
9 used to produce crops, the number of acres used to
10 produce crops, and the types of crops produced in the
11 county.

12 d. The calculations used by the county board of
13 supervisors in its analysis shall be based upon rules
14 adopted by the department of natural resources in
15 cooperation with Iowa state university and the
16 department of agriculture and land stewardship. The
17 rules shall provide that the calculations may be based
18 on conclusions by sources determined credible by the
19 department of natural resources, including, but not
20 limited to, Iowa state university, the United States
21 department of agriculture, a registered professional
22 engineer, or an individual certified as a crop
23 consultant by the American registry of certified
24 professionals in agronomy, crops, and soils, certified
25 crop consultants, or the registry of environmental and
26 agricultural professionals. Upon request, the
27 department of natural resources shall provide to a
28 county information regarding the nitrogen content of
29 manure to be applied on land in the county according
30 to manure management plans filed with the department
31 pursuant to section 455B.203.

32 e. At any time after twelve months following the
33 adoption of an ordinance under this subsection, a
34 petition protesting the findings of the analysis may
35 be submitted to the county board of supervisors. The
36 petition must be signed by at least ten percent of all
37 owners of animal feeding operations in the county,
38 each of whom resides in the county and has received at
39 least ten thousand dollars for animals sold in the
40 previous twelve-month period. The ordinance shall be
41 nullified unless within six months following receipt
42 of the petition by the county board of supervisors,
43 the board conducts a subsequent analysis as provided
44 in this subsection which confirms the findings of the
45 previous analysis, and the board adopts the subsequent
46 analysis by resolution."

By DERRYL McLAREN
BRAD BANKS

S-5188 FILED MARCH 5, 1996

LOST

(p.632)

S-5162

1 Amend Senate File 2037 as follows:

2 1. Page 1, by striking lines 1 through 28 and

3 inserting the following:

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

6 335.2 FARMS AGRICULTURAL USES EXEMPT.

7 1. As used in this section:

8 a. "Animal feeding operation" means a lot, yard,
9 corral, building, or other area in which animals are
10 confined and fed and maintained for forty-five days or
11 more in any twelve-month period, and all structures
12 used for the storage of manure from animals in the
13 operation. Two or more animal feeding operations
14 under common ownership or management are deemed to be
15 a single animal feeding operation if they are adjacent
16 or utilize a common system for manure storage. An
17 animal feeding operation does not include a livestock
18 market.

19 b. "Agricultural purpose" means any use connected
20 or related to farming.

21 c. "Farm animal feeding operation" means an animal
22 feeding operation other than an industrial feeding
23 operation.

24 d. "Farming" means the same as defined in section
25 9H.1.

26 e. "Industrial feeding operation structure" means
27 an animal feeding operation structure as defined in
28 section 455B.161 which is part of an industrial
29 feeding operation.

30 f. "Partially zoned county" means an unzoned
31 county in which is established an agricultural area
32 pursuant to section 352.6 or an area subject to zoning
33 pursuant to this chapter, if the county has not
34 adopted countywide zoning pursuant to chapter 335.

35 g. "Production inputs" means feed, supplies, and
36 veterinary medicine used to feed or breed livestock,
37 but does not include labor, construction materials,
38 equipment, or tools.

39 h. "Unzoned county" means a county which has not
40 adopted zoning pursuant to this chapter, if no part of
41 the county is subject to partial zoning.

42 i. "Zoned county" means a county which has adopted
43 zoning on a countywide basis as provided in this
44 chapter.

45 2. As used in this section, "industrial feeding
46 operation" means an animal feeding operation, if the
47 operation contains six hundred twenty-five thousand or
48 more pounds animal weight capacity for all animal
49 species other than beef cattle, or one million six
50 hundred thousand or more pounds animal weight capacity

S-5162

S-5162

Page 2

1 for beef cattle, or fails to meet one of the following
2 criteria:

3 a. The owner of the agricultural land where an
4 animal feeding operation is located is qualified to
5 file for a homestead tax credit as provided pursuant
6 to section 425.2 or a family farm tax credit as
7 provided in section 425A.4 in the county where the
8 agricultural land is located. However, if the owner
9 of the agricultural land is a business entity all of
10 the following apply:

11 (1) One of the following persons must be eligible
12 to file:

13 (a) If the person is filing for a homestead tax
14 credit, one of the following persons must be eligible
15 to file:

16 (i) If the owner is a corporation, the majority
17 shareholder of the corporation.

18 (ii) If the owner is a partnership, any partner.

19 (iii) If the owner is a limited liability company,
20 the person holding the greatest membership interest in
21 the limited liability company.

22 (iv) If the owner is a limited partnership, the
23 person contributing the most value to the limited
24 partnership.

25 (v) If the owner is a trust, the beneficiary
26 having the greatest interest in the trust.

27 (b) If the person is filing for a family farm tax
28 credit one of the following persons must be eligible
29 to file:

30 (i) If the owner is a corporation, the majority
31 shareholder of the corporation.

32 (ii) If the owner is a partnership, any partner.

33 b. At least forty percent of the interest in the
34 business entity must be held by persons related to
35 each other as spouse, parent, grandparent, lineal
36 ascendants of grandparents or their spouses, or lineal
37 descendants of the grandparents or their spouses, or
38 persons acting in a fiduciary capacity to persons so
39 related.

40 c. More than fifty percent of the production
41 inputs used to maintain livestock on the agricultural
42 land are purchased within sixty miles from the borders
43 of the agricultural land where the livestock operation
44 is located.

45 d. The operation cannot have benefited from any of
46 the following:

47 (1) The job training partnership program and other
48 programs administered under section 15.108.

49 (2) The community economic betterment program
50 created in sections 15.315 through 15.320.

S-5162

-2-

S-5162

Page 4

1 located within the corporate limits of a city. An
2 industrial feeding operation shall not be located in
3 an unzoned county, the unzoned portion of a partially
4 zoned county, or an agricultural area within a
5 partially zoned county.

6 4. This section shall not apply to either of the
7 following:

8 a. An ordinance required to implement an
9 agricultural land preservation ordinance, as provided
10 in section 335.27.

11 b. A structure, building, dam, obstruction,
12 deposit or excavation in or on the flood plains of any
13 a river or stream."

By MERLIN E. BARTZ

S-5162 FILED MARCH 4, 1996

adopted 3-5-96
(P. 634)

S-5162

Page 3

- 1 (3) The self-employment loan program created in
2 section 15.241.
3 (4) The targeted small business financial
4 assistance program created in section 15.247.
5 (5) An agreement for a supplemental new jobs tax
6 credit as provided in section 15.331.
7 (6) The industrial new jobs training program as
8 provided in chapter 260E.
9 (7) The small business new jobs training program
10 as provided in chapter 260F.
11 (8) An economic development area established
12 pursuant to chapter 403.

13 For purposes of reimbursing a county that has
14 acquired real estate containing an industrial feeding
15 operation structure following nonpayment of taxes
16 pursuant to section 446.19, all shareholders of any
17 corporation, partners of a partnership, members of a
18 limited liability company, limited partners of any
19 limited partnership, or beneficiaries of any trust
20 shall be liable for the entire costs of remediating
21 the site, as if they owned the industrial feeding
22 operation personally, regardless of the amount of
23 interest that is held in the entity.

24 ~~3. Except to the extent required to implement~~
25 ~~section-335-27, no~~ An ordinance adopted under this
26 chapter applies shall apply to land, farm including
27 houses, farm barns, farm outbuildings or other
28 buildings or structures located on the land, which are
29 is primarily adapted, by reason of nature and area,
30 for use for an agricultural purposes purpose, while so
31 used, only as provided in this section. However, the
32 ~~ordinances may apply to any~~ The ordinance shall not
33 apply to the land, unless an industrial feeding
34 operation is located on the land. If an industrial
35 feeding operation is located on the land, the
36 ordinance shall only apply to the site of the
37 industrial feeding operation as provided in this
38 section and not land where other farming operations
39 occur. The following shall apply to the site of a
40 farm animal feeding operation constructed on or after
41 the effective date of this Act, regardless of whether
42 the county has adopted an ordinance under this
43 chapter:

44 a. A farm animal feeding operation may be located
45 anywhere in a county other than within the corporate
46 limits of a city. A farm animal feeding operation may
47 be located in an unzoned, partially zoned, or zoned
48 county. An ordinance adopted under this chapter shall
49 not apply to the farm animal feeding operation.

50 b. An industrial feeding operation shall not be

S-5162

-3-

SENATE FILE 2037

S-5168

1 Amend Senate File 2037 as follows:

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

4 "Section 1. NEW SECTION. 331.309 AGRICULTURAL
5 DRAINAGE WELLS -- PENALTY.

6 1. The owner of land shall do all of the following
7 by July 1, 1998:

8 a. If the land contains a surface water intake
9 emptying into an agricultural drainage well, including
10 a surface water intake located in a road ditch, the
11 owner shall remove the surface water intake by July 1,
12 1998. This surface-water-intake removal requirement
13 does not require a person to remove or prohibit a
14 person from installing a tile line that empties into
15 an agricultural drainage well, if the tile line does
16 not have a surface water intake.

17 b. If the land contains a cistern connecting to an
18 agricultural drainage well, the owner shall construct
19 and maintain sidewalls surrounding the cistern in
20 order to prevent surface water runoff directly
21 emptying into the agricultural drainage well.

22 c. If the land contains an agricultural drainage
23 well, the owner shall install a vented cover over the
24 agricultural drainage well in order to prevent surface
25 water runoff directly emptying into the agricultural
26 drainage well.

27 2. A county may adopt minimum standards to
28 administer the requirements of this section. The
29 department of natural resources shall provide
30 information relating to owners registering
31 agricultural drainage wells pursuant to section 159.29
32 to each county board of supervisors and each drainage
33 district organized pursuant to chapter 468, where an
34 agricultural drainage well is registered.

35 3. Landowners of land where an agricultural
36 drainage well is located shall be notified of the
37 deadline for complying with this section by print,
38 electronic media, or other notification process, as
39 follows:

40 a. If the agricultural drainage well is not
41 located on land within a drainage district as provided
42 in chapter 468, the county shall provide the notice.

43 b. If the agricultural drainage well is located on
44 land within a drainage district as provided in chapter
45 468, the board of the drainage district shall provide
46 the notice, unless the county and the district
47 determine that notice will be provided by the county.

48 4. A surface tile emptying into an agricultural
49 drainage well shall be inspected to ensure compliance
50 with this section, as follows:

S-5168

S-5168

Page 2

1 a. If the agricultural drainage well is not within
2 a drainage district as provided in chapter 468, the
3 inspection shall be made as required by the county
4 board of supervisors.

5 b. If the agricultural drainage well is located on
6 land which is within a drainage district as provided
7 in chapter 468, the inspection shall be made as
8 required by the board of the drainage district, unless
9 the county and the district determine that inspection
10 will be made by the county.

11 The expenses incurred by the board of supervisors
12 for notification, inspection, and recordation shall be
13 paid equally by landowners in the county who own land
14 where there is located an agricultural drainage well.
15 The amount shall be placed upon the tax books, and
16 collected with interest and penalties after due, in
17 the same manner as other unpaid property taxes.
18 However, if expenses are incurred by the board of the
19 drainage district, the amount shall be charged to the
20 landowners in the district.

21 5. A person who does not comply with this section
22 is guilty of a simple misdemeanor. However, if a
23 person was guilty of violating this section and again
24 violates this section by not taking action necessary
25 to correct a previous violation within sixty days
26 after judgment is entered, the person is guilty of a
27 serious misdemeanor. If a person was guilty of
28 violating this section two or more times and again
29 violates this section by not taking action necessary
30 to correct a previous violation within sixty days
31 after the last judgment is entered, the person is
32 guilty of an aggravated misdemeanor.

33 Sec. 2. Section 455B.173, subsection 13, Code
34 Supplement 1995, is amended to read as follows:

35 13. a. Adopt, modify, or repeal rules relating to
36 the construction or operation of animal feeding
37 operations. The rules shall include, but are not
38 limited to, minimum manure control requirements,
39 requirements for obtaining permits, and departmental
40 evaluations of animal feeding operations. The
41 department shall not require that a person obtain a
42 permit for the construction of an animal feeding
43 operation structure, if the structure is part of a
44 small animal feeding operation.

45 b. The department shall collect an indemnity fee
46 as provided in section 204.3 prior to the issuance of
47 a construction permit. The department shall deposit
48 moneys collected in indemnity fees in the manure
49 storage indemnity fund created in section 204.2.

50 c. The department shall not approve a permit for

S-5168

S-5168

Page 3

1 the construction of three or more animal feeding
2 operation structures unless the applicant files a
3 statement approved by a professional engineer
4 registered pursuant to chapter 542B certifying that
5 the construction of the animal feeding operation
6 structure will not impede the drainage through
7 established drainage tile lines which cross property
8 boundary lines unless measures are taken to
9 reestablish the drainage prior to completion of
10 construction. ~~The department shall deposit moneys~~
11 ~~collected in indemnity fees in the manure storage~~
12 ~~indemnity fund created in section 204.2.~~

13 d. The department shall issue a permit for an
14 animal feeding operation, if an application is
15 submitted according to procedures required by the
16 department according to this section, and the
17 application meets standards established by the
18 department, regardless of whether the animal feeding
19 operation is required to obtain such a permit. An
20 applicant for a construction permit shall not begin
21 construction at the location of a site planned for the
22 construction of an animal feeding operation structure,
23 until the person has been granted a permit for the
24 construction of the structure by the department.

25 e. The department shall make a determination
26 regarding the approval or denial of a permit within
27 sixty days from the date that the department receives
28 a completed application for a the approval of the
29 permit, as provided in this paragraph. However, the
30 sixty-day requirement shall not apply to an
31 application, if the applicant is not required to
32 obtain a permit in order to construct an animal
33 feeding operation structure or to operate an animal
34 feeding operation. The department shall deliver a
35 copy or require the applicant to deliver a copy of the
36 application for a construction permit to the county
37 board of supervisors in the county where the
38 confinement feeding operation or confinement animal
39 feeding operation structure subject to the permit is
40 to be located. Upon receipt of an application for
41 departmental approval under this section, the
42 department shall determine if the application complies
43 with all permit requirements. The process of
44 approving or disapproving a permit shall be as
45 follows:

46 (1) If the total animal weight capacity of all
47 permitted confinement feeding operations in the county
48 is less than fifty million pounds, the department
49 shall not approve the application or issue a
50 construction permit until thirty days following

S-5168

S-5168

Page 4

1 delivery of the application to the county board of
2 supervisors. The department shall consider comments
3 from the county board of supervisors, regarding
4 compliance by the applicant with the legal
5 requirements for the construction of the confinement
6 feeding operation structure as provided in this
7 chapter, and rules adopted by the department pursuant
8 to this chapter, if the comments are delivered to the
9 department within fourteen days after receipt of the
10 application by the county board of supervisors.

11 (2) If the total animal weight capacity of all
12 permitted confinement feeding operations in the county
13 is fifty million pounds or more, the department shall
14 not approve the application or issue a construction
15 permit until the county has approved the application.
16 The county shall receive the application from the
17 applicant or the department as required by the
18 department. Within sixty days after receipt of the
19 application by the county board of supervisors, the
20 board shall either approve or disapprove the
21 application; endorse its approval or disapproval on
22 the application; and forward the application to the
23 department as required by the department. An
24 application which is not received by the department in
25 a timely manner shall be deemed to be approved by the
26 department.

27 f. Prior to granting a permit to a person for the
28 construction of an animal feeding operation, the
29 department may require the installation and operation
30 of a hydrological monitoring system for an exclusively
31 earthen manure storage structure, if, after an on-site
32 inspection, the department determines that the site
33 presents an extraordinary potential for groundwater
34 pollution.

35 g. A person shall not obtain a permit for the
36 construction of a confinement feeding operation,
37 unless the person develops a manure management plan as
38 provided in section 455B.203.

39 h. The department shall not issue a permit to a
40 person under this subsection if an enforcement action
41 by the department, relating to a violation of this
42 chapter concerning a confinement feeding operation in
43 which the person has an interest, is pending. The
44 department shall not issue a permit to a person under
45 this subsection for five years after the date of the
46 last violation committed by a person or confinement
47 feeding operation in which the person holds a
48 controlling interest during which the person or
49 operation was classified as a habitual violator under
50 section 455B.191. The department shall conduct an

S-5168

-4-

S-5168

Page 5

1 annual review of each confinement feeding operation
2 which is a habitual violator and each confinement
3 feeding operation in which a habitual violator holds a
4 controlling interest. The department shall notify
5 persons classified as habitual violators of their
6 classification, additional restrictions imposed upon
7 the persons pursuant to the classification, and
8 special civil penalties that may be imposed upon the
9 persons. The notice shall be sent to the persons by
10 certified mail.

11 Sec. 3. Section 455B.201, subsection 4, Code
12 Supplement 1995, is amended by adding the following
13 new subsection:

14 4. A person shall not use spray irrigation
15 equipment to apply manure on land from which water
16 drains into an agricultural drainage well. A person
17 shall not otherwise apply manure by spray irrigation
18 equipment, except as provided by rules which shall be
19 adopted by the department pursuant to chapter 17A.

20 Sec. 4. Section 455B.203, subsection 1, Code
21 Supplement 1995, is amended to read as follows:

22 1. ~~In order to receive a permit for the~~
23 ~~construction of a~~ A person constructing an animal
24 feeding operation structure which is part of a
25 confinement feeding operation, as provided in section
26 455B.173 other than a small animal feeding operation,
27 a person shall submit a manure management plan to the
28 department. If the person is required to obtain a
29 construction permit for a confinement feeding
30 operation as provided in section 455B.173, the person
31 shall submit the manure management plan together with
32 the application for a construction permit. If the
33 person is not required to obtain a construction
34 permit, the person shall submit the manure management
35 plan prior to construction."

36 2. Title page, by striking lines 2 and 3 and
37 inserting the following: "drainage, construction
38 permits, and manure management plans".

39 3. By renumbering as necessary.

By STEWART IVERSON, Jr.

S-5168 FILED MARCH 4, 1996

~~added~~ out of order

3-5-96

SENATE FILE 2037

S-5167

1 Amend Senate File 2037 as follows:

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

4 "Section 1. Section 335.2, Code 1995, is amended
5 to read as follows:

6 335.2 FARMS AGRICULTURAL PURPOSES EXEMPT.

7 1. As used in this section:

8 a. "Agricultural purpose" means any use connected
9 or related to farming as defined in section 9H.1.

10 b. "Animal feeding operation" and "animal feeding
11 operation structure" mean the same as defined in
12 section 455B.161.

13 c. "Manure storage structure" means a structure
14 used to store manure produced by an animal feeding
15 operation and includes an anaerobic lagoon, earthen
16 manure storage basin, or formed manure storage
17 structure, as defined in section 455B.161.

18 2. ~~Except to the extent required to implement as~~
19 ~~provided in this section, 335.27, no an ordinance~~
20 ~~adopted under this chapter applies shall not apply to~~
21 ~~land, farm including houses, farm barns, farm~~
22 ~~outbuildings, or and other buildings or structures,~~
23 ~~which are is primarily adapted, by reason of nature~~
24 ~~and area, for use for an agricultural purposes~~
25 ~~purpose, while so used. However, the ordinances may~~
26 ~~apply to any~~

27 3. Subsection 2 shall not prohibit an ordinance
28 adopted pursuant to this chapter if the ordinance
29 applies to either of the following:

30 a. A structure, building, dam, obstruction,
31 deposit or excavation in or on the flood plains of any
32 river or stream.

33 b. The implementation of an agricultural
34 preservation ordinance, as provided in section 335.27.

35 4. a. Subsection 2 shall not prohibit an
36 ordinance adopted pursuant to this subsection which
37 applies to animal feeding operations, including animal
38 feeding operation structures, constructed or expanded
39 after the effective date of this Act.

40 b. The county board of supervisors shall not adopt
41 the ordinance until the board conducts a county-wide
42 nitrogen use analysis as provided for in this
43 subsection. The methodology employed in performing
44 the analysis must be approved by the department of
45 natural resources according to procedures adopted by
46 the department after consultation with the animal
47 agriculture consulting organization as provided in
48 1995 Iowa Acts, chapter 195, section 37.

49 c. The analysis must find that the total nitrogen
50 content of manure that is expected to be applied to

S-5167

S-5167

Page 2

1 land in the county and originating from manure storage
2 structures located in the county, during the course of
3 the next twelve-month period, exceeds the expected
4 total nitrogen use necessary to obtain optimum crop
5 yields on land used for producing crops in the county.
6 Deductions shall be made for nitrogen credits from
7 legume production and expected commercial nitrogen
8 fertilizer applications. The resulting value shall
9 then be corrected for expected nitrogen loss.
10 Information to complete the required calculations must
11 account for the soil types used to produce crops, the
12 number of acres used to produce crops, and the types
13 of crops produced in the county.

14 d. The calculations used by the county board of
15 supervisors in its analysis shall be based upon rules
16 adopted by the department of natural resources in
17 cooperation with Iowa state university and the
18 department of agriculture and land stewardship. The
19 rules shall provide that the calculations may be based
20 on conclusions by sources determined credible by the
21 department of natural resources, including, but not
22 limited to, Iowa state university, the United States
23 department of agriculture, a registered professional
24 engineer, or an individual certified as a crop
25 consultant by the American registry of certified
26 professionals in agronomy, crops, and soils, certified
27 crop consultants, or the registry of environmental and
28 agricultural professionals. Upon request, the
29 department of natural resources shall provide to a
30 county information regarding the nitrogen content of
31 manure to be applied on land in the county according
32 to manure management plans filed with the department
33 pursuant to section 455B.203.

34 e. At any time after twelve months following the
35 adoption of an ordinance under this subsection, a
36 petition protesting the findings of the analysis may
37 be submitted to the county board of supervisors. The
38 petition must be signed by at least ten percent of all
39 owners of animal feeding operations in the county,
40 each of whom resides in the county and has received at
41 least ten thousand dollars for animals sold in the
42 previous twelve-month period. The ordinance shall be
43 nullified unless within six months following receipt
44 of the petition by the county board of supervisors,
45 the board conducts a subsequent analysis as provided
46 in this subsection which confirms the findings of the
47 previous analysis, and the board adopts the subsequent
48 analysis by resolution."

By DERRYL McLAREN
BRAD BANKS

S-5167 FILED MARCH 4, 1996

V. M. M. N.
3-5-96
p. 631

SENATE FILE **2037**
BY KIBBIE and HUSAK

(AS AMENDED AND PASSED BY THE SENATE MARCH 6, 1996)
_____ - New Language by the Senate

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to animal feeding operations by providing for
2 county zoning and siting of certain operations, and imposing
3 requirements relating to construction permits.

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

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S.F. 2037

1 Section 1. NEW SECTION. 331.309 CONFINEMENT FEEDING
2 OPERATIONS -- SITING ORDINANCE.

3 1. As used in this section:

4 a. "Animal feeding operation structure" means the same as
5 defined in section 455B.161.

6 b. "Animal weight capacity" means the same as defined in
7 section 455B.161.

8 c. "Confinement feeding operation" means the same as
9 defined in section 455B.161.

10 2. a. Notwithstanding section 335.2, a county may adopt a
11 confinement feeding operations siting ordinance, pursuant to
12 section 331.302. The purpose of the ordinance shall be to
13 approve the siting of a confinement feeding operation
14 regardless of whether the county has adopted an ordinance
15 under chapter 335 or regardless of the classification of the
16 confinement feeding operation. The ordinance shall provide
17 authority to a county to approve the site of the construction
18 or expansion of a confinement feeding operation, including
19 confinement feeding operation buildings and related animal
20 feeding operation structures in order to preserve and protect
21 natural resources, including water sources and fragile
22 environmental locations; lessen congestion and overcrowding of
23 confinement feeding operations, especially near cities; and to
24 protect the health and welfare of the public.

25 b. The ordinance shall provide for a method and procedure
26 required to approve the site. In administering the ordinance,
27 the county shall establish a confinement feeding operations
28 siting commission which shall review each proposal for the
29 construction or expansion of a confinement feeding operation,
30 and recommend to the county board of supervisors that the
31 board approve or disapprove the proposal. The board shall
32 appoint five members of the commission. Four members shall
33 not reside in a city, and one member shall reside in a city.
34 At least three members shall be or have been actively engaged
35 in animal agriculture. The commission shall make its

1 recommendation to the board within forty-five days from the
2 date that the board receives a complete proposal. The board
3 shall approve or disapprove a proposal within forty-five days
4 from the date that the board receives the commission's
5 recommendation.

6 c. A confinement feeding operations siting ordinance shall
7 not apply to a confinement feeding operation, if either of the
8 following apply:

9 (1) Only bovine or poultry are confined in the confinement
10 feeding operation.

11 (2) The confinement feeding operation has an animal weight
12 capacity of less than three hundred thousand pounds.

13 Sec. 2. Section 335.2, Code 1995, is amended to read as
14 follows:

15 335.2 FARMS AGRICULTURAL USES EXEMPT.

16 1. As used in this section:

17 a. "Animal feeding operation" means a lot, yard, corral,
18 building, or other area in which animals are confined and fed
19 and maintained for forty-five days or more in any twelve-month
20 period, and all structures used for the storage of manure from
21 animals in the operation. Two or more animal feeding
22 operations under common ownership or management are deemed to
23 be a single animal feeding operation if they are adjacent or
24 utilize a common system for manure storage. An animal feeding
25 operation does not include a livestock market.

26 b. "Agricultural purpose" means any use connected or
27 related to farming.

28 c. "Farm animal feeding operation" means an animal feeding
29 operation other than an industrial feeding operation.

30 d. "Farming" means the same as defined in section 9H.1.

31 e. "Industrial feeding operation structure" means an
32 animal feeding operation structure as defined in section
33 455B.161 which is part of an industrial feeding operation.

34 f. "Partially zoned county" means an unzoned county in
35 which is established an agricultural area pursuant to section

1 352.6 or an area subject to zoning pursuant to this chapter,
2 if the county has not adopted countywide zoning pursuant to
3 chapter 335.

4 g. "Production inputs" means feed, supplies, and
5 veterinary medicine used to feed or breed livestock, but does
6 not include labor, construction materials, equipment, or
7 tools.

8 h. "Unzoned county" means a county which has not adopted
9 zoning pursuant to this chapter, if no part of the county is
10 subject to partial zoning.

11 i. "Zoned county" means a county which has adopted zoning
12 on a countywide basis as provided in this chapter.

13 2. As used in this section, "industrial feeding operation"
14 means an animal feeding operation, if the operation contains
15 six hundred twenty-five thousand or more pounds animal weight
16 capacity for all animal species other than beef cattle, or one
17 million six hundred thousand or more pounds animal weight
18 capacity for beef cattle, or fails to meet one of the
19 following criteria:

20 a. The owner of the agricultural land where an animal
21 feeding operation is located is qualified to file for a
22 homestead tax credit as provided pursuant to section 425.2 or
23 a family farm tax credit as provided in section 425A.4 in the
24 county where the agricultural land is located. However, if
25 the owner of the agricultural land is a business entity all of
26 the following apply:

27 (1) One of the following persons must be eligible to file:

28 (a) If the person is filing for a homestead tax credit,
29 one of the following persons must be eligible to file:

30 (i) If the owner is a corporation, the majority
31 shareholder of the corporation.

32 (ii) If the owner is a partnership, any partner.

33 (iii) If the owner is a limited liability company, the
34 person holding the greatest membership interest in the limited
35 liability company.

1 (iv) If the owner is a limited partnership, the person
2 contributing the most value to the limited partnership.

3 (v) If the owner is a trust, the beneficiary having the
4 greatest interest in the trust.

5 (b) If the person is filing for a family farm tax credit
6 one of the following persons must be eligible to file:

7 (i) If the owner is a corporation, the majority
8 shareholder of the corporation.

9 (ii) If the owner is a partnership, any partner.

10 b. At least forty percent of the interest in the business
11 entity must be held by persons related to each other as
12 spouse, parent, grandparent, lineal ascendants of grandparents
13 or their spouses, or lineal descendants of the grandparents or
14 their spouses, or persons acting in a fiduciary capacity to
15 persons so related.

16 c. More than fifty percent of the production inputs used
17 to maintain livestock on the agricultural land are purchased
18 within sixty miles from the borders of the agricultural land
19 where the livestock operation is located.

20 d. The operation cannot have benefited from any of the
21 following:

22 (1) The job training partnership program and other
23 programs administered under section 15.108.

24 (2) The community economic betterment program created in
25 sections 15.315 through 15.320.

26 (3) The self-employment loan program created in section
27 15.241.

28 (4) The targeted small business financial assistance
29 program created in section 15.247.

30 (5) An agreement for a supplemental new jobs tax credit as
31 provided in section 15.331.

32 (6) The industrial new jobs training program as provided
33 in chapter 260E.

34 (7) The small business new jobs training program as
35 provided in chapter 260F.

1 (8) An economic development area established pursuant to
2 chapter 403.

3 For purposes of reimbursing a county that has acquired real
4 estate containing an industrial feeding operation structure
5 following nonpayment of taxes pursuant to section 446.19, all
6 shareholders of any corporation, partners of a partnership,
7 members of a limited liability company, limited partners of
8 any limited partnership, or beneficiaries of any trust shall
9 be liable for the entire costs of remediating the site, as if
10 they owned the industrial feeding operation personally,
11 regardless of the amount of interest that is held in the
12 entity.

13 3. Except-to-the-extent-required-to-implement-section
14 335-27,--no An ordinance adopted under this chapter applies
15 shall apply to land, farm including houses, farm barns, farm
16 outbuildings or other buildings or structures located on the
17 land, which are is primarily adapted, by reason of nature and
18 area, for-use for an agricultural purposes purpose, while so
19 used, only as provided in this section. However,-the
20 ordinances-may-apply-to-any The ordinance shall not apply to
21 the land, unless an industrial feeding operation is located on
22 the land. If an industrial feeding operation is located on
23 the land, the ordinance shall only apply to the site of the
24 industrial feeding operation as provided in this section and
25 not land where other farming operations occur. The following
26 shall apply to the site of a farm animal feeding operation
27 constructed on or after the effective date of this Act,
28 regardless of whether the county has adopted an ordinance
29 under this chapter:

30 a. A farm animal feeding operation may be located anywhere
31 in a county other than within the corporate limits of a city.
32 A farm animal feeding operation may be located in an unzoned,
33 partially zoned, or zoned county. An ordinance adopted under
34 this chapter shall not apply to the farm animal feeding
35 operation.

1 b. An industrial feeding operation shall not be located
2 within the corporate limits of a city. An industrial feeding
3 operation shall not be located in an unzoned county, the
4 unzoned portion of a partially zoned county, or an
5 agricultural area within a partially zoned county.

6 4. This section shall not apply to either of the
7 following:

8 a. An ordinance required to implement an agricultural land
9 preservation ordinance, as provided in section 335.27.

10 b. A structure, building, dam, obstruction, deposit or
11 excavation in or on the flood plains of any a river or stream.

12 Sec. 3. Section 455B.173, subsection 13, Code Supplement
13 1995, is amended to read as follows:

14 13. a. Adopt, modify, or repeal rules relating to the
15 construction, including the expansion, of animal feeding
16 operations, or the operation of animal feeding operations.

17 The rules shall include, but are not limited to, minimum
18 manure control requirements, requirements for obtaining
19 permits, and departmental evaluations of animal feeding
20 operations. ~~The department shall not require that a person~~
21 ~~obtain a permit for the construction of an animal feeding~~
22 ~~operation structure, if~~ A person must obtain a construction
23 permit to construct an animal feeding operation structure
24 which is part of or connected to a confinement feeding
25 operation, unless the structure is part of a small animal
26 feeding operation. However, unless otherwise required by
27 departmental rule, this paragraph does not require a person to
28 obtain a construction permit to construct an animal feeding
29 operation structure which is part of or connected to and used
30 exclusively by a confinement feeding operation in which only
31 bovine or avian animals are confined.

32 b. The department shall collect an indemnity fee as
33 provided in section 204.3 prior to the issuance of a
34 construction permit. The department shall deposit indemnity
35 fees in the manure storage indemnity fund created in section

1 204.2.

2 c. The department shall not approve a permit for the
3 construction of three or more animal feeding operation
4 structures unless the applicant files a statement approved by
5 a professional engineer registered pursuant to chapter 542B
6 certifying that the construction of the animal feeding
7 operation structure will not impede the drainage through
8 established drainage tile lines which cross property boundary
9 lines unless measures are taken to reestablish the drainage
10 prior to completion of construction. ~~The department shall~~
11 ~~deposit moneys collected in indemnity fees in the manure~~
12 ~~storage indemnity fund created in section 204.2.~~

13 d. The department shall issue a permit for an animal
14 feeding operation, if an application is submitted according to
15 procedures required by the department, and the application
16 meets standards established by the department, regardless of
17 whether the animal feeding operation is required to obtain
18 such a permit. An applicant for a construction permit shall
19 not begin construction at the location of a site planned for
20 the construction of an animal feeding operation structure,
21 until the person has been granted a permit for the
22 construction of the structure by the department. The
23 department shall make a determination regarding the approval
24 or denial of a permit within sixty days from the date that the
25 department receives a completed application for a permit.
26 However, the sixty-day requirement shall not apply to an
27 application, if the applicant is not required to obtain a
28 permit in order to construct an animal feeding operation
29 structure or to operate an animal feeding operation. The
30 department shall deliver a copy or require the applicant to
31 deliver a copy of the application for a construction permit to
32 the county board of supervisors in the county where the
33 confinement feeding operation or confinement feeding operation
34 structure subject to the permit is to be located. The
35 department shall not approve the application or issue a

1 construction permit until thirty days following delivery of
2 the application to the county board of supervisors. The
3 department shall consider comments from the county board of
4 supervisors, regarding compliance by the applicant with the
5 legal requirements for the construction of the confinement
6 feeding operation structure as provided in this chapter, and
7 rules adopted by the department pursuant to this chapter, if
8 the comments are delivered to the department within fourteen
9 days after receipt of the application by the county board of
10 supervisors. Prior to granting a permit to a person for the
11 construction of an animal feeding operation, the department
12 may require the installation and operation of a hydrological
13 monitoring system for an exclusively earthen manure storage
14 structure, if, after an on-site inspection, the department
15 determines that the site presents an extraordinary potential
16 for groundwater pollution.

17 e. A person shall not obtain a permit for the construction
18 of a confinement feeding operation, unless the person develops
19 a manure management plan as provided in section 455B.203.

20 f. The department shall not issue a permit to a person
21 under this subsection if an enforcement action by the
22 department, relating to a violation of this chapter concerning
23 a confinement feeding operation in which the person has an
24 interest, is pending. The department shall not issue a permit
25 to a person under this subsection for five years after the
26 date of the last violation committed by a person or
27 confinement feeding operation in which the person holds a
28 controlling interest during which the person or operation was
29 classified as a habitual violator under section 455B.191. The
30 department shall conduct an annual review of each confinement
31 feeding operation which is a habitual violator and each
32 confinement feeding operation in which a habitual violator
33 holds a controlling interest. The department shall notify
34 persons classified as habitual violators of their
35 classification, additional restrictions imposed upon the

1 persons pursuant to the classification, and special civil
2 penalties that may be imposed upon the persons. The notice
3 shall be sent to the persons by certified mail.

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