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SENATE FILE 2447

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and VILSACK

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

A BILL FOR

1 An Act relating to Iowa family farm animal feeding operations,
2 providing an appropriation, providing for tax exemptions,
3 providing for penalties, and providing for the future repeal
4 of certain provisions.

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

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S.F. 2447

1 Section 1. NEW SECTION. 175A.1 SHORT TITLE.

2 This chapter shall be known and may be cited as the "Iowa
3 Family Farm Animal Feeding Operations Preservation Act".

4 Sec. 2. NEW SECTION. 175A.2 PURPOSE.

5 The purpose of this chapter is to address a grave threat to
6 traditional farmers who produce animals in this state and who
7 face capitalization barriers and the consolidation of animal
8 agriculture, which results in fewer individuals engaged in
9 farming. These conditions result in a loss in population,
10 unemployment and a movement of persons from rural communities
11 to urban areas accompanied by added costs to communities for
12 the creation of new public facilities and services. It is
13 therefore necessary to assist small and medium sized family
14 farm animal feeding operations in order to expand such
15 operations and preserve a way of life which has traditionally
16 supported Iowa's economy and communities.

17 Sec. 3. NEW SECTION. 175A.3 DEFINITIONS.

18 1. "Animal feeding operation" means the same as defined in
19 section 455B.161.

20 2. "Animal feeding operation structure" means the same as
21 defined in section 455B.161.

22 3. "Animal weight capacity" means the same as defined in
23 section 455B.161.

24 4. "Authority" means the agricultural development
25 authority established pursuant to section 175.3.

26 5. "Family farm animal feeding operation" or "operation"
27 means an animal feeding operation located on the land where
28 the owner of the operation also engages in farming activities
29 other than animal feeding operation activities, if all of the
30 following criteria are satisfied:

31 a. The total animal weight capacity of all animals other
32 than bovine owned by the person is two hundred thousand pounds
33 or less, and the total animal weight capacity of bovine owned
34 by the person is four hundred thousand pounds or less.

35 b. A person holding an interest in the animal feeding

1 operation owns all animals confined and fed in the animal
2 feeding operation.

3 c. The person who owns the animal feeding operation raises
4 and harvests crops in the same or an adjoining county where
5 the animal feeding operation is located.

6 d. The person who owns the animal feeding operation is one
7 of the following:

8 (1) A natural person.

9 (2) A general partnership composed exclusively of natural
10 persons.

11 e. Each person who holds an interest in the animal feeding
12 operation resides in this state.

13 f. The animal feeding operation is located entirely within
14 the state.

15 6. "Farming" means the same as defined in section 175.2.

16 7. "Lending institution" means a bank, trust company,
17 mortgage company, national banking association, savings and
18 loan association, life insurance company, any state or federal
19 governmental agency or instrumentality, including without
20 limitation the federal land bank or any of its local
21 associations, or any other financial institution or entity
22 authorized to make farm operating loans in this state.

23 8. "Low or moderate net worth" means:

24 a. For an individual, an aggregate net worth of the
25 individual and the individual's spouse and minor children of
26 less than two hundred thousand dollars.

27 b. For any general partnership, an aggregate net worth of
28 all partners, including each partner's net capital in the
29 partnership, and of each partner's spouse and minor children
30 of less than three hundred thousand dollars. However, the
31 aggregate net worth of each partner and that partner's spouse
32 and minor children shall not exceed two hundred thousand
33 dollars.

34 9. "Net worth" means a person's total assets minus total
35 liabilities as determined in accordance with generally

1 accepted accounting principles with appropriate exceptions and
2 exemptions reasonably related to an equitable determination of
3 a person's net worth. Assets shall be valued at fair market
4 value.

5 10. "Note" means a bond anticipation note or other
6 obligation or evidence of indebtedness issued by the authority
7 pursuant to this chapter.

8 11. "Secured loan" means a financial obligation secured by
9 a chattel mortgage, security agreement, or other instrument
10 creating a lien on an interest in depreciable agricultural
11 property.

12 Sec. 4. NEW SECTION. 175A.4 ASSISTANCE PROGRAMS.

13 1. The authority shall administer programs under this
14 section to assist family farm animal feeding operations. The
15 department of revenue and finance shall assist the authority
16 in administering this section.

17 2. In order to assist a family farm animal feeding
18 operation in financing the operation, including by assisting
19 in whole or in part the acquisition of animals, or the
20 purchase of agricultural land, the purchase of agricultural
21 improvements or depreciable agricultural property, the
22 construction of buildings, facilities, or animal feeding
23 operation structures, related to the operation, the authority
24 shall do all of the following:

25 a. Cooperate with any other state agency or the federal
26 government, including supplementing assistance provided by
27 another state agency and the federal government.

28 b. Administer other programs provided under chapter 175,
29 including supplementing assistance provided by other programs.

30 c. Provide certification necessary to allow owners of
31 operations to claim an income tax credit as provided in
32 section 175A.5, and a property tax exemption pursuant to
33 section 427.1.

34 d. Administer the following programs:

35 (1) A loan guarantee program to provide for guaranteeing

1 of all or part of a loan made to the operation.

2 (2) An interest buy-down program, in which the authority
3 contracts with a participating lending institution to reduce
4 the interest rate charged on a loan to the operation. The
5 authority shall determine the amount that the rate is reduced
6 by considering the lending institution's customary loan rate
7 for the type of loan sought as certified to the authority by
8 the lending institution. As part of the contract, in order to
9 reimburse the lending institution for the reduction of the
10 interest rate on the loan, the authority may agree to grant
11 the lending institution any amount foregone by reducing the
12 interest rate on that portion of the loan which is three
13 hundred thousand dollars or less. However, the amount
14 reimbursed shall not be more than fifty percent of the amount
15 of interest foregone by the lending institution on the loan.

16 3. The amount of assistance awarded to a family farm
17 animal feeding operation shall be based on the extent to which
18 the following apply:

19 a. The operation has a low or moderate net worth.

20 b. The owner of the family farm animal feeding operation
21 utilizes a computer system using an application designed to
22 monitor herd performance, as approved by Iowa state
23 university.

24 c. The person managing the operation is actively engaged
25 in improving the management of the operation, which may
26 include participating in the livestock producers assistance
27 program provided pursuant to section 266.39D, or employing a
28 person qualified by the American registry of professional
29 animal science, who is actively engaged in the profession of
30 consulting with livestock producers for the purpose of
31 increasing production or enhancing performance of livestock.

32 4. In order to participate in a program administered under
33 this section, all of the following must apply:

34 a. The family farm animal feeding operation or any person
35 holding an interest in the operation is not classified as a

1 habitual violator as provided in section 455B.191.

2 b. The assistance provided by the authority under this
3 section is not used to construct, repair, or expand an
4 anaerobic lagoon or earthen manure storage basin as defined in
5 section 455B.161.

6 5. a. The authority shall adopt rules to administer this
7 section, including the enforcement of terms of a contract to
8 which the authority is a party. The authority may require a
9 lending institution or a family farm animal feeding operation
10 to submit evidence satisfactory to the authority that the
11 lending institution or operation has complied with the
12 authority's requirements.

13 b. The authority may inspect any records of a lending
14 institution or a family farm animal feeding operation which
15 are pertinent to the administration of a program. In order to
16 assure compliance with this section and rules adopted pursuant
17 to this section, the authority may establish by rule
18 appropriate enforcement provisions, including but not limited
19 to, the payment of civil penalties by a lending institution or
20 operation. The authority may also enforce the provisions of
21 this section or terms of the contract by bringing an action in
22 any court of competent jurisdiction to recover damages.

23 6. A lending institution and the borrower participating in
24 a program under this section shall each pay to the authority
25 one-half of an origination fee which shall not exceed one
26 percent of the loan. In addition, the lending institution
27 shall pay a fee equal to twenty-five basis points on the loan
28 to the authority on an annual basis.

29 Sec. 5. NEW SECTION. 175A.5 INCOME TAX CREDIT.

30 1. A family farm animal feeding operation which receives
31 at least ten thousand dollars in assistance under section
32 175A.4 as certified by the authority under section 175A.4
33 shall be entitled to receive a tax credit equal to ten percent
34 of all new investments made in the operation not later than
35 the tax year following the tax year in which the operation

1 receives assistance under section 175A.4.

2 2. For purposes of this section, "new investment" means
3 the capitalized cost of all real and personal property related
4 to the family farm animal feeding operation, including
5 animals; buildings and animal feeding operation structures
6 qualifying under this section; equipment; and other
7 improvements to the operation, purchased or otherwise acquired
8 or relocated to the operation. "New investment" does not
9 include intangible property, or furniture and furnishings.
10 For the purposes of this section, capitalized cost of property
11 shall be determined in accordance with accounting methods used
12 by the taxpayer in determining the taxpayer's income for state
13 tax purposes.

14 3. Any credit in excess of the tax liability for the tax
15 year may be applied to the tax liability for the following ten
16 years or until depleted, whichever occurs first.

17 4. The department of revenue and finance shall adopt any
18 rules necessary to administer this section.

19 Sec. 6. NEW SECTION. 175A.6 FAMILY FARM ANIMAL FEEDING
20 OPERATION FUND.

21 1. A family farm animal feeding operation fund is created
22 within the state treasury under the control of the authority.
23 The fund shall consist of any moneys appropriated by the
24 general assembly, fees paid to the authority, and any other
25 moneys available to and obtained or accepted by the authority
26 from the federal government or private sources for placement
27 in the fund. Moneys shall be deposited in the fund as
28 provided in section 175A.7. Not more than one hundred fifty
29 thousand dollars shall be available annually from the fund for
30 administration of section 175A.4 and this section. The assets
31 of the fund shall be used by the authority only for carrying
32 out the purposes of section 175A.1 and section 427.1,
33 subsection 28.

34 2. In administering the fund the authority may do all of
35 the following:

1 a. Contract, sue and be sued, and adopt administrative
2 rules necessary to administer this section. However, the
3 authority shall not in any manner directly or indirectly
4 pledge the credit of the state.

5 b. Authorize payment from the fund for costs, commissions,
6 attorney fees, and other reasonable expenses, including
7 expenses related to carrying out duties necessary for
8 administering programs provided for under section 175A.4,
9 including for guaranteeing loans, and for the recovery of loan
10 moneys guaranteed or the management of property acquired in
11 connection with such loans.

12 3. Payments of interest, recaptures of awards, or
13 repayments of moneys provided in assistance under section
14 175A.4 shall be deposited into the fund. Section 8.33 does
15 not apply to any moneys in the fund until June 30, 2001.
16 Notwithstanding section 12C.7, interest or earnings on
17 investments or time deposits of the moneys in the fund shall
18 be credited to the fund.

19 4. The fund is subject to an annual audit as provided by
20 the authority. Moneys in the fund, which may be subject to
21 warrants written by the director of revenue and finance, shall
22 be drawn upon the written requisition of the authority's
23 executive director.

24 Sec. 7. NEW SECTION. 175A.7 STANDING APPROPRIATION.

25 For each fiscal year of the fiscal period beginning July 1,
26 1996, and ending June 30, 2002, there is appropriated fifteen
27 million dollars from the general fund of the state to the
28 family farm animal feeding operation fund created in section
29 175A.6.

30 Sec. 8. Section 427.1, Code Supplement 1995, is amended by
31 adding the following new subsection:

32 NEW SUBSECTION. 28. The property of a family farm animal
33 feeding operation as defined in section 175A.3, which receives
34 at least ten thousand dollars in assistance awarded and
35 certified by the agricultural development authority under

1 section 175A.4 shall be exempt from taxation for a period of
2 five years, to the extent provided in this subsection.

3 a. The exemption shall apply as follows:

4 (1) It begins on January 1 of the year following the year
5 in which the family farm animal feeding operation receives
6 assistance under section 175A.4.

7 (2) It is limited to the market value, as defined in
8 section 441.21, of the property of the family farm animal
9 feeding operation. If the property of the family farm animal
10 feeding operation is assessed with other property as a unit,
11 the exemption shall be limited to the net market value of the
12 property of the family farm animal feeding operation
13 determined as of the assessment date.

14 b. In order to receive the exemption, the owner of the
15 operation must file for the exemption with the assessing
16 authority not later than the first of February of the first
17 year for which the exemption applies, on forms provided by the
18 agricultural development authority. The application shall
19 provide a description of the family farm animal feeding
20 operation subject to the exemption. The application shall be
21 accompanied by a certificate of assistance provided by the
22 agricultural development authority.

23 c. The assessing authority shall retain a permanent file
24 of current exemptions filed in the assessing authority's
25 office. Not later than July 6 of each year, the assessing
26 authority shall remit a statement certifying the total amount
27 of exemptions allowed under this subsection. After receiving
28 the certification, the agricultural development authority
29 shall draw warrants on the family farm animal feeding
30 operation fund created in section 175A.6 which shall be
31 payable to the assessing authority in the amount certified by
32 the assessing authority, and shall mail the warrants to the
33 assessing authorities on August 15 of each year. However, if
34 the family farm animal feeding operation fund does not have
35 sufficient moneys available to pay in full the total of the

1 amounts certified to the agricultural development authority,
2 the authority shall prorate unobligated and unencumbered
3 moneys in the fund to the assessing authorities.

4 Sec. 9. FUTURE REPEAL.

5 1. Sections 175A.5 and 175A.7 are repealed.

6 2. Section 427.1, subsection 28, is amended by striking
7 the subsection.

8 3. This section takes effect on July 1, 2002.

9 4. Notwithstanding this section, an income tax credit
10 granted pursuant to section 175A.5, or a property tax
11 exemption provided under section 427.1, subsection 28, shall
12 continue in effect and shall be administered and enforced
13 until its expiration as provided in this Act.

14 EXPLANATION

15 This bill creates a new chapter entitled the "Iowa Family
16 Farm Animal Feeding Preservation Act". The bill provides that
17 the purpose of the chapter is to assist traditional farmers
18 who produce animals in this state and who face capitalization
19 barriers and the consolidation of animal agriculture. A
20 family farm animal feeding operation is defined to mean a
21 natural person or a general partnership composed exclusively
22 of natural persons which owns an animal feeding operation
23 located on the land where the person or partnership engages in
24 other farming activities. Additional requirements relate to
25 the operation's animal weight capacity, the extent to which
26 the owner of the operation is a party to a contract feeding
27 arrangement, whether the owner of the operation raises and
28 harvests crops on land where the animal feeding operation is
29 located, and the manner in which the operation is organized.

30 The bill provides for the administration of programs by the
31 agricultural development authority to assist family farm
32 animal feeding operations, including a loan guarantee program,
33 and an interest buy-down program. The authority must award
34 assistance based on whether an operation has a low or moderate
35 net worth, utilizes an approved computer system for monitoring

1 herd performance, and benefits from programs designed to
2 improve the management of the operation. In order to
3 participate in a program, the operation cannot be owned by a
4 person classified as a habitual violator under section
5 455B.191. The bill prohibits assistance being used to
6 construct, repair, or expand an anaerobic lagoon or earthen
7 manure storage basin. The bill requires the authority to
8 adopt rules to administer the programs, including the payment
9 of civil penalties by persons violating agreements with the
10 authority.

11 The bill establishes a family farm animal feeding operation
12 fund in order to support the assistance programs. Not more
13 than \$150,000 available from the fund may be used annually by
14 the authority for administration. The bill provides a
15 standing appropriation of \$15 million for each year until June
16 30, 2002.

17 The bill provides for an income tax credit for an operation
18 which receives assistance from the authority. The tax credit
19 is equal to a maximum of 10 percent of all new investment made
20 by the operation not later than one year following the year in
21 which the operation received assistance. The new investment
22 includes the capitalized cost of all real and personal
23 property related to the operation. Any credit in excess of
24 the tax liability for the tax year may be applied to the tax
25 liability for the following 10 years or until depleted,
26 whichever occurs first.

27 Finally, the bill provides that a family farm animal
28 feeding operation which qualifies for assistance is exempt
29 from property taxes for five years. The bill provides
30 procedures for filing for the exemption with the assessing
31 authority on a form provided by the department of revenue and
32 finance. The bill provides for reimbursing counties for
33 amounts lost by allowing property tax exemptions.

34 The bill provides that the income tax credit and
35 appropriation provisions of the bill are repealed on July 1,

- 1 2002.
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SENATE FILE 2447

S-5393

1 Amend Senate File 2447 as follows:
2 1. Page 8, by striking lines 25 through 27 and
3 inserting the following: "office. Not later than
4 July 6 of each year, the assessing authority shall
5 remit applications including certifications, for
6 exemptions with the assessing authority's
7 recommendation for approval or disapproval. If the
8 assessing authority recommends disapproval of an
9 application, the assessing authority shall submit the
10 reasons for the recommendation, in writing, to the
11 county auditor. The county auditor shall forward the
12 applications to the board of supervisors. The board
13 shall approve or disapprove the applications. If the
14 board disapproves an application, it shall send
15 written notice, by mail, to the applicant at the
16 applicant's last known address. The notice shall
17 state the reasons for disapproving the application.
18 The board is not required to send notice that an
19 application is disapproved if the applicant
20 voluntarily withdraws the application. All
21 applications which have been approved by the board of
22 supervisors shall be certified on or before August 1,
23 in each year, by the county auditor to the county
24 treasurer. The county treasurer shall certify to the
25 agricultural development authority the total amount of
26 dollars of exemptions due under this subsection.
27 After receiving".
28 2. Page 8, line 31, by striking the words
29 "assessing authority" and inserting the following:
30 "county treasurer".
31 3. Page 8, line 32, by striking the words
32 "assessing authority" and inserting the following:
33 "county treasurer".
34 4. Page 8, line 33, by striking the words
35 "assessing authorities" and inserting the following:
36 "county treasurers".
37 5. Page 9, line 3, by striking the words
38 "assessing authorities" and inserting the following:
39 "county treasurers".

By JOHN P. KIBBIE

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