

FILED JAN 15 1998

SENATE FILE 2036
BY VILSACK

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

A BILL FOR

1 An Act relating to environmental protection by regulating
2 confinement feeding operations, and providing for an
3 appropriation, fees, and penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2036

1 Section 1. Section 266.39D, Code 1997, is amended to read
2 as follows:

3 266.39D LIVESTOCK ~~PRODUCERS~~ PRODUCTION ASSISTANCE PROGRAM
4 PROGRAMS.

5 Iowa state university shall establish and administer a
6 livestock ~~producers production~~ assistance program programs to
7 provide ~~on-site~~ assistance to persons involved in livestock
8 ~~production operations~~. The programs shall include the
9 following:

10 1. A program to provide on-site assistance to livestock
11 producers in order to increase the efficiency, productivity,
12 and profitability of their operations. The program, to every
13 extent practicable, shall be supported by nonstate moneys.
14 The university shall submit a report to the legislative fiscal
15 bureau by November 1 of each year, if the university expects
16 that state moneys may be required to support the program
17 during the subsequent state fiscal year. The report shall
18 include all expected sources of revenues and the amounts
19 expected to be contributed by these sources for the subsequent
20 state fiscal year.

21 2. A program to assist persons, including livestock
22 producers, in managing the storage and disposal of manure
23 originating from animal feeding operations as defined in
24 section 455B.161. The department of natural resources and the
25 department of agriculture and land stewardship shall cooperate
26 with the university in administering the program. The
27 university shall establish a model animal feeding operation in
28 order to demonstrate best practical structures, equipment, and
29 practices available in managing manure originating from the
30 operation, including methods which minimize odor and threats
31 of pollution to groundwater and surface water caused by the
32 storage, removal, and application of manure.

33 Sec. 2. Section 455B.109, subsection 4, Code 1997, is
34 amended to read as follows:

35 4. All civil penalties assessed by the department and

1 interest on the penalties shall be deposited in the general
2 fund of the state. However, ~~civil~~ the following shall apply
3 to violations committed by animal feeding operations:

4 a. A civil penalty arising out of a violation committed by
5 a confinement feeding operation under division II, part 2, may
6 be trebled if the confinement feeding operation is required to
7 have an operating permit approved by the department as
8 provided in section 455B.202A. A civil penalty arising out of
9 a violation committed by a confinement feeding operation under
10 division III may be trebled if the confinement feeding
11 operation is required to have an operating permit approved by
12 the department as provided in section 455B.202A.

13 b. Civil penalties assessed-by-the-department and interest
14 on penalties, arising out of violations committed by animal
15 feeding operations under division II, part 2, shall be
16 deposited in the manure storage indemnity fund as created in
17 section 204.2. Civil penalties assessed ~~by-the-department~~ and
18 interest on the penalties arising out of violations committed
19 by animal feeding operations under division III, which may be
20 assessed pursuant to section 455B.191, shall be deposited in
21 the manure storage indemnity fund as created in section 204.2.

22 Sec. 3. Section 455B.162, subsection 1, unnumbered
23 paragraph 1, Code 1997, is amended to read as follows:

24 Except as provided in subsection subsections 2 and 3, the
25 following ~~table~~ tables shall apply to animal feeding operation
26 structures:

27 Sec. 4. Section 455B.162, Code 1997, is amended by adding
28 the following new subsection:

29 NEW SUBSECTION. 3. This section shall not apply to
30 authorize the construction or expansion of an earthen manure
31 storage structure which is prohibited as provided in section
32 455B.207.

33 Sec. 5. Section 455B.171, Code Supplement 1997, is amended
34 by adding the following new subsections:

35 NEW SUBSECTION. 1A. "Anaerobic lagoon" means the same as

1 defined in section 455B.161.

2 NEW SUBSECTION. 3A. "Chronic violator" means the same as
3 defined in section 657.11.

4 NEW SUBSECTION. 7A. "Earthen manure storage basin" means
5 the same as defined in section 455B.161.

6 NEW SUBSECTION. 7B. "Earthen manure storage structure"
7 means a structure other than a formed manure storage structure
8 that is used to store or treat manure originating from an
9 animal feeding operation, including an anaerobic lagoon,
10 earthen manure storage basin, or earthen aerobic structure.

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

13 NEW SUBSECTION. 12A. "Manure storage structure" means a
14 structure used to store manure as part of an animal feeding
15 operation regardless of whether it is subject to a
16 construction permit issued by the department pursuant to
17 section 455B.173. A manure storage structure includes, but is
18 not limited to, an anaerobic lagoon, aerobic structure, formed
19 manure storage structure, earthen manure slurry basin, or
20 earthen manure storage basin.

21 Sec. 6. Section 455B.173, subsection 13, Code 1997, is
22 amended to read as follows:

23 13. a. Adopt, modify, or repeal rules relating to the
24 construction or operation of animal feeding operations. The
25 rules shall include, but are not limited to, minimum manure
26 control requirements, requirements for obtaining permits, and
27 departmental evaluations of animal feeding operations.

28 b. The department shall not require that a person obtain a
29 permit for the construction of an animal feeding operation
30 structure, if the structure is part of a small animal feeding
31 operation.

32 c. 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 moneys
35 collected in indemnity fees in the manure storage indemnity

1 fund created in section 204.2.

2 d. 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.~~ The
13 department shall not approve a permit for the construction of
14 a restricted earthen manure storage structure prohibited
15 pursuant to section 455B.207.

16 e. The department shall issue a permit for an animal
17 feeding operation, if an application is submitted according to
18 procedures required by the department, and the application
19 meets standards established by the department, regardless of
20 whether the animal feeding operation is required to obtain
21 such a permit.

22 f. An applicant for a construction permit shall not begin
23 construction at the location of a site planned for the
24 construction of an animal feeding operation structure, until
25 the person has been granted a permit for the construction of
26 the structure by the department. The department shall make a
27 determination regarding the approval or denial of a permit
28 within sixty days from the date that the department receives a
29 completed application for a permit. However, the sixty-day
30 requirement shall not apply to an application, if the
31 applicant is not required to obtain a permit in order to
32 construct an animal feeding operation structure or to operate
33 an animal feeding operation.

34 g. The department shall deliver a copy or require the
35 applicant to deliver a copy of the application for a

1 construction permit to the county board of supervisors in the
2 county where the confinement feeding operation or ~~confinement~~
3 related animal feeding operation structure subject to the
4 permit is to be located. The department shall not approve the
5 application or issue a construction permit until thirty days
6 following delivery of the application to the county board of
7 supervisors. The department shall consider comments from the
8 county board of supervisors; regarding compliance by the
9 applicant with the legal requirements for the construction of
10 the confinement feeding operation structure as provided in
11 this chapter, and rules adopted by the department pursuant to
12 this chapter, if the comments are delivered to the department
13 within fourteen days after receipt of the application by the
14 county board of supervisors.

15 h. The department shall adopt rules providing for the
16 installation and maintenance of groundwater monitoring wells
17 to adequately determine the quality of the state's groundwater
18 and the impact of the storage and disposal of manure from
19 animal feeding operations on the quality of groundwater
20 sources. Prior to granting a permit to a person for the
21 construction of an animal feeding operation, the department
22 may require the installation and operation of a hydrological
23 monitoring system for an exclusively earthen manure storage
24 structure, if, after an on-site inspection, the department
25 determines that the site presents an extraordinary potential
26 for groundwater pollution.

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

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

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

14 Sec. 7. Section 455B.191, Code 1997, is amended by adding
15 the following new subsections:

16 NEW SUBSECTION. 7A. Notwithstanding this section, a
17 person who is required to be certified as provided in section
18 455B.206 shall be subject to a civil penalty of five hundred
19 dollars for each day that the person acts in violation of that
20 section. The person is also guilty of a serious misdemeanor.

21 NEW SUBSECTION. 7B. A civil penalty arising out of a
22 violation committed by a confinement feeding operation under
23 part 2 may be trebled if the confinement feeding operation is
24 required to have an operating permit approved by the
25 department as provided in section 455B.202A.

26 Sec. 8. NEW SECTION. 455B.202A CONFINEMENT FEEDING
27 OPERATIONS -- CHRONIC VIOLATOR OPERATING PERMITS.

28 1. a. If a confinement feeding operation or a person
29 holding a controlling interest in a confinement feeding
30 operation is classified as a chronic violator, the confinement
31 feeding operation must apply to the department for an
32 operating permit within thirty days of the classification.
33 The department shall make a determination regarding the
34 approval or denial of an operating permit within sixty days
35 from the date that the department receives a completed

1 application for a permit.

2 b. If a confinement feeding operation fails to timely
3 apply for an operating permit pursuant to paragraph "a" or the
4 department denies a confinement feeding operation's
5 application for an operating permit, the confinement feeding
6 operation shall be closed.

7 2. An application for an operating permit must be
8 submitted to the department on a form furnished by the
9 department according to procedures required by the department.
10 An operating permit shall expire one year from the date that
11 the application is approved.

12 3. A confinement feeding operation required to obtain an
13 operating permit shall notify the department at least thirty
14 days prior to removing manure from a manure storage structure
15 which is part of the confinement feeding operation. A
16 departmental official must be on site to oversee the removal
17 of manure. However, in order to access the operation, the
18 departmental official must comply with standard disease
19 control restrictions customarily required by the operation.
20 The department shall comply with section 455B.103, subsection
21 4, in conducting an investigation of the premises where the
22 animals are kept. The department shall assess, and the
23 confinement feeding operation shall pay, the actual costs of
24 providing the oversight.

25 4. a. Regardless of whether a confinement feeding
26 operation or a person holding a controlling interest in a
27 confinement feeding operation has been removed from the
28 classification of a chronic violator, an operating permit must
29 be approved by the department each year until the confinement
30 feeding operation and a person holding a controlling interest
31 in the operation have not committed a serious violation of
32 this chapter for the previous five years.

33 b. An operating permit shall be cancelled and a
34 confinement feeding operation shall be closed for one year
35 following the date that the confinement feeding operation

1 commits a serious violation.

2 c. For purposes of this section, a serious violation is a
3 violation of this part or rules adopted by the department
4 pursuant to this part by doing any of the following:

5 (1) Managing a confinement feeding operation, including
6 operating or constructing a related animal feeding operation
7 structure or pollution control device or practice, in a
8 negligent manner. It shall be conclusively presumed that a
9 confinement feeding operation which causes pollution to the
10 waters of the state is managed in a negligent manner.

11 (2) Failing to submit a complete manure management plan as
12 required pursuant to section 455B.203.

13 (3) Making a false statement or misrepresenting
14 information to the department as part of an application for an
15 operating permit.

16 (4) Failing to obtain approval by the department for a
17 permit required to operate a confinement feeding operation as
18 provided in this section.

19 (5) Removing manure from a manure storage structure
20 without notifying the department as required pursuant to this
21 section.

22 (6) Refusing to allow a departmental inspection as
23 provided in section 455B.205.

24 5. If a confinement feeding operation is closed under this
25 section, the department shall supervise the operation's
26 depopulation and the removal and disposal of manure stored in
27 associated manure storage structures.

28 Sec. 9. Section 455B.203, subsection 5, Code 1997, is
29 amended by striking the subsection.

30 Sec. 10. NEW SECTION. 455B.205 INSPECTIONS.

31 1. The department may inspect a confinement feeding
32 operation requiring a construction permit as provided in
33 section 455B.173, at any time during normal working hours, and
34 may inspect records required to be maintained as part of the
35 manure management plan as required pursuant to section

1 455B.203.

2 2. The department shall inspect a confinement feeding
3 operation requiring a construction permit at least once each
4 year. The department shall develop a system to prioritize the
5 inspections of confinement feeding operations based on the
6 risk of pollution caused by the operations to surface water or
7 groundwater. If the department is required to approve an
8 operating permit for a confinement feeding operation as
9 provided in section 455B.202A, the department shall inspect
10 the confinement feeding operation as frequently as
11 practicable.

12 3. The department shall assess, and the confinement
13 feeding operation shall pay, the actual costs of an
14 inspection.

15 4. In order to access the premises of a confinement
16 feeding operation, a departmental inspector must comply with
17 standard disease control restrictions customarily required by
18 the operation in the area where the inspection will occur.

19 5. The department shall comply with section 455B.103 in
20 conducting an investigation of the premises where the animals
21 are kept.

22 Sec. 11. NEW SECTION. 455B.206 CERTIFICATION.

23 1. The following persons must be certified by the
24 department as provided in this section prior to performing
25 functions related to managing and operating manure storage
26 structures or related pollution control devices or practices
27 associated with a confinement feeding operation:

28 a. The manager of a confinement feeding operation
29 constructed pursuant to a permit approved by the department
30 pursuant to section 455B.173.

31 b. Each person actively engaged in operating a confinement
32 feeding operation which operates under an operating permit
33 approved by the department pursuant to section 455B.202A. A
34 person is not required to be certified pursuant to this
35 paragraph once an operating permit is not required. For

1 purposes of this paragraph, a person is actively engaged in
2 operating a confinement feeding operation if the person does
3 any of the following:

4 (1) Regularly and frequently makes, or takes an important
5 part in making, management decisions substantially
6 contributing to or affecting the success of the operation.

7 (2) Performs physical work which significantly contributes
8 to the confinement feeding operation.

9 2. A person who enters into a contract or an agreement for
10 compensation and agrees to perform a service by applying
11 manure onto land shall not apply manure unless the person is
12 certified by the department as provided in this section. This
13 subsection does not apply to any of the following:

14 a. A person engaged in livestock and crop production who
15 trades work with another such person.

16 b. An employee who engages in livestock and crop
17 production, if any of the following applies:

18 (1) The employee is not employed solely as a manure
19 applicator and applies manure on the employer's land as an
20 incidental part of the employee's general duties.

21 (2) A person who applies manure as an incidental part of a
22 custom farming operation.

23 c. A person who is employed to apply manure and performs
24 the application for a period of twenty-one days from the date
25 of initial employment, if the person is competent and acts
26 under the instruction and control of a certified manure
27 applicator who is physically present, by being in sight or
28 hearing distance of the certified manure applicator.

29 d. A person who is applying manure which is regulated as a
30 fertilizer or soil conditioner pursuant to chapter 200.

31 e. A person who applies manure on less than two acres of
32 land during any consecutive twelve-month period.

33 3. A person required to be certified under this section
34 shall complete an educational program. To be initially
35 certified, the person must pass an examination. After initial

1 certification the person must renew the certification by
2 passing an examination or attending continuing instructional
3 courses. A person renewing a certification must pass the
4 examination each third year following initial certification or
5 attend two hours of continuing instructional courses each
6 year. The department shall establish different educational
7 programs designed for persons managing confinement feeding
8 operations, operating facilities associated with confinement
9 feeding operations subject to an operating permit, and
10 applying manure.

11 4. a. The department shall adopt rules necessary to carry
12 out this section, including establishing certification
13 standards, which shall at least include standards for the
14 handling, application, and storage of manure, the effects of
15 manure upon surface water and groundwater, and procedures to
16 contain or cleanup manure which threatens surface water or
17 groundwater. The department shall adopt rules providing for
18 the educational program requirements based on the
19 certification standards. The department shall adopt by rule
20 criteria for allowing a person required to be certified to
21 complete either a written or oral examination. The department
22 shall notify a person who fails to receive or retain a
23 certification, by delivering a written notice to the person
24 within ten days following the failure. The notice shall
25 include all reasons for the failure.

26 b. The department shall administer the continuing
27 instructional courses, by either teaching the courses or
28 selecting persons to teach the courses, according to criteria
29 established by rules adopted by the department. The
30 department shall, to the extent possible, select persons to
31 teach the courses in each county. The department is not
32 required to compensate persons selected to teach the courses.
33 In selecting persons, the department shall rely upon
34 organizations interested in the application of manure,
35 including associations representing agricultural producers.

1 The department shall cooperate with the department of natural
2 resources in designing an examination and approving
3 instructional courses. The Iowa cooperative extension service
4 in agriculture and home economics of Iowa state university of
5 science and technology shall cooperate with the department in
6 administering the instructional courses. The Iowa cooperative
7 extension service may teach courses, train persons selected to
8 teach courses, and distribute informational materials to
9 persons teaching the courses.

10 5. A person required to be certified pursuant to this
11 section shall pay a twenty-five dollar fee for each year that
12 the person applies for certification.

13 Sec. 12. NEW SECTION. 455B.207 CONSTRUCTION OF EARTHEN
14 MANURE STORAGE STRUCTURES -- PROHIBITION.

15 1. As used in this section, "restricted earthen manure
16 storage structure" means an earthen manure storage structure
17 which is part of a confinement feeding operation in which all
18 of the following apply:

19 a. The structure's capacity is more than three million
20 gallons.

21 b. The confinement feeding operation is used for the care
22 and feeding of swine.

23 c. The weaning and finishing phases of the production
24 cycle are conducted at the confinement feeding operation.

25 2. A person shall not construct a restricted earthen
26 manure storage structure on or after the effective date of
27 this Act.

28 3. A restricted earthen manure storage structure shall not
29 be used to store more than the following number of gallons of
30 manure:

31 a. Ten million gallons on or after July 1, 2000.

32 b. Seven million gallons on or after July 1, 2002.

33 c. Five million gallons on or after July 1, 2004.

34 d. Three million gallons on or after July 1, 2006.

35 Sec. 13. APPROPRIATION. There is appropriated from the

1 general fund of the state to the department of natural
2 resources for the fiscal year beginning July 1, 1998, and
3 ending June 30, 1999, the following amount, or so much thereof
4 as is necessary, to be used for the purposes designated:

5 For the regulation of animal feeding operations, including
6 salaries, support, maintenance, miscellaneous purposes, which
7 shall be used exclusively for the administration and
8 enforcement of regulations affecting animal feeding
9 operations, including approving permits and conducting
10 inspections and investigations of the operations, and for not
11 more than the following full-time equivalent positions:

12	\$	707,600
13	FTEs	15.00

14 EXPLANATION

15 This bill relates to environmental protection, by providing
16 for livestock production, specifically programs and
17 regulations affecting animal feeding operations. The bill
18 does all of the following:

19 The bill requires Iowa state university to establish and
20 administer a program to assist persons, including livestock
21 producers, in managing the storage and disposal of manure
22 originating from animal feeding operations. The university is
23 required to establish a model animal feeding operation in
24 order to demonstrate best practical structures, equipment, and
25 practices available in managing manure originating from an
26 operation.

27 The bill provides that civil penalties that are assessable
28 against owners of confinement feeding operations may be
29 trebled if the confinement feeding operation is required to
30 have an operating permit approved by the department due to
31 classification as a chronic violator as provided in this bill.

32 The bill requires the department to adopt rules providing
33 for the installation and maintenance of groundwater monitoring
34 wells to adequately determine the quality of the state's
35 groundwater and the impact of the storage and disposal of

1 manure from animal feeding operations on the quality of
2 groundwater sources.

3 The bill requires the department to approve an operating
4 permit for a confinement feeding operation, if the confinement
5 feeding operation is classified as a chronic violator. The
6 bill also provides that if a person holding a controlling
7 interest in a confinement feeding operation is classified as a
8 chronic violator, the department must approve an operating
9 permit for each confinement feeding operation in which the
10 person holds a controlling interest. The confinement feeding
11 operation must be closed unless the department approves an
12 application for the operating permit within 90 days following
13 the classification.

14 The chronic violator classification currently applies to
15 prevent confinement feeding operations classified as chronic
16 violators from receiving nuisance suit protection. Generally,
17 a violator is classified as a chronic violator if three or
18 more specified violations have been committed, regardless of
19 whether they were committed prior to the effective date of
20 this bill. The violators must have been punished by a civil
21 penalty equal to \$3,000 or more or a court order or judgment
22 for a legal action brought by the attorney general after
23 referral by the department. The violations must have related
24 to constructing or operating a related animal feeding
25 operation structure in violation of state law, intentionally
26 making a false statement or misrepresenting information to the
27 department as part of an application for a construction
28 permit, failing to obtain a permit to construct or operate a
29 confinement feeding operation or use a related animal feeding
30 operation structure, operating a confinement feeding operation
31 which causes pollution to the waters of the state caused
32 intentionally or caused by a failure to take measures required
33 to abate the pollution resulting from an act of God, or
34 failing to submit a manure management plan.

35 The bill provides that regardless of whether a confinement

1 feeding operation or a person holding a controlling interest
2 in a confinement feeding operation has been removed from the
3 classification of a chronic violator, an operating permit must
4 be approved by the department each year until the confinement
5 feeding operation and a person holding a controlling interest
6 in the operation have not committed a serious violation for
7 the previous five years. The bill provides that an operating
8 permit must be cancelled and a confinement feeding operation
9 must be closed for one year following the date that a
10 confinement feeding operation commits a serious violation.
11 According to the bill a serious violation occurs when the
12 confinement feeding operation violates state law by managing
13 the confinement feeding operation in a negligent manner,
14 failing to submit a manure management plan, making a false
15 statement or misrepresenting information to the department as
16 part of an application for an operating permit, failing to
17 obtain approval by the department for a permit required to
18 operate the confinement feeding operation, removing manure
19 from a related manure storage structure without notifying the
20 department, or refusing to allow a departmental inspection of
21 the facilities.

22 The bill provides that a confinement feeding operation
23 operating under an operating permit must notify the department
24 at least 30 days prior to removing manure from a manure
25 storage structure which is part of the confinement feeding
26 operation. A departmental inspector must be on site to
27 oversee the removal of manure.

28 The bill provides that the department must regularly
29 inspect a confinement feeding operation requiring a
30 construction permit at least once each year. The department
31 is required to inspect a confinement feeding operation subject
32 to an operating permit as frequently as practicable.

33 The bill requires that certain persons must be certified
34 prior to performing functions related to managing and
35 operating manure storage structures or related pollution

1 control devices or practices associated with a confinement
2 feeding operation. These persons include the manager of a
3 confinement feeding operation constructed pursuant to a
4 construction permit, each person actively engaged in operating
5 a confinement feeding operation which operates under an
6 operating permit approved by the department, and a person who
7 enters into a contract to apply manure onto another person's
8 land. The person required to be certified must complete an
9 educational program. To be initially certified, the person
10 must pass an examination. After initial certification the
11 person must renew the certification by passing an examination
12 or attending continuing instructional courses. There is a \$25
13 fee for applying for certification. A person who is required
14 to be certified is subject to a civil penalty of \$500 for each
15 day that the person acts in violation of that section. The
16 person is also guilty of a serious misdemeanor.

17 The bill prohibits persons from constructing certain
18 earthen manure storage structures which are part of
19 confinement feeding operations, if the structure's capacity is
20 more than 3 million gallons, the confinement feeding operation
21 is used for the care and feeding of swine, and the weaning and
22 finishing phases of the production cycle are conducted at the
23 operation. In addition, the bill provides that a restricted
24 earthen manure storage structure cannot be used to store more
25 than a certain number of gallons of manure by certain future
26 dates. A structure cannot store more than 10 million gallons
27 on or after July 1, 2000, 7 million gallons on or after July
28 1, 2002, 5 million gallons on or after July 1, 2004, and 3
29 million gallons on and after July 1, 2006.

30 The bill appropriates moneys to the department of natural
31 resources for purposes of supporting additional persons
32 involved in the administration and enforcement of regulations
33 affecting animal feeding operations, including approving
34 permits and conducting inspections and investigations of the
35 operations.

**SENATE FILE 2036
FISCAL NOTE**

A fiscal note for Senate File 2036 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2036 increases regulation and oversight of confinement feeding operations. This bill outlines a number of new programs for enforcement by the Department of Natural Resources.

BACKGROUND

Confinement feeding operations have created environmental concerns with regards to the disposal of manure and the effect on the groundwater. This bill outlines a number of new programs that include:

1. The establishment of a model animal feeding operation by Iowa State University. This operation would demonstrate manure management techniques.
2. Increasing civil penalties of owners classified as chronic violators.
3. Requiring the Department of Natural Resources to adopt rules for the implementation of groundwater monitoring wells to determine the effect of manure disposal on the quality of groundwater.
4. Requiring the Department of Natural Resources to approve the operating permit of an operator classified as a chronic violator. All entities that the party has a controlling interest in, must be approved as well. The review would be completed 90 days after the operator is classified.
5. Prohibiting a chronic violator from receiving nuisance suit protection.
6. Requiring the Department of Natural Resources to approve an operating permit on an annual basis for a chronic violator. This process would continue until the operator has not committed a serious violation for five years.
7. Closing a confinement operation for a serious violation for one year.
8. Requiring a confinement feeding operation to notify the Department of Natural Resources 30 days prior to the removal of manure from a storage structure. An inspector from the Department would be present to oversee the removal operation.
9. Requiring the Department to inspect confinement feeding operations at least once a year.
10. Requiring certification of persons managing and operating manure storage structures or pollution control structures at confinement feeding operations.
11. Prohibiting the construction of an earthen manure storage structure when the capacity is more than three million gallons and the operation is for the care and feeding of swine. The bill sets storage limits for an earthen storage structure.

ASSUMPTIONS

PAGE 2 , FISCAL NOTE, SENATE FILE 2036

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The bill appropriates funds for the implementation of the program which includes enforcement of regulations, operations inspection, and permit issuance.

FISCAL IMPACT

The fiscal impact of Senate File 2036 is \$707,600 for the hiring of 15.00 FTEs to implement the program.

SOURCE

Department of Natural Resources

(LSB 3163SS, DFK)

FILED FEBRUARY 9, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR