

7. Presence or absence of violations by the board of directors of the school district of rules and guidelines adopted or promulgated by the state board.

Sec. 76. The state board of education shall study the feasibility of enacting permanent legislation that would allow school students residing in school districts to attend school in other school districts and shall report its conclusions to the general assembly not later than January 1, 1988. The state board shall consider, but not be limited to, the conditions under which such a transfer might be made, the requirements for an appeal process by either party, the method and determination of payment, transportation efficiency, and impact on the educational system of the state.

Sec. 77. Iowa Acts, 1986 Session, chapter 1245, section 1499B, is repealed.

Sec. 78. Section 279.34, Code 1987, is repealed.

Sec. 79. Chapter 294A and section 75 of this Act, being deemed of immediate importance, take effect upon their enactment. Sections 27, 54, 59, 60, and 62 of this Act do not apply to sharing agreements signed before the effective date of those sections. Sections 55 and 68 of this Act take effect for the school year beginning July 1, 1988. Section 280.16, Code 1987, remains in effect for the school year beginning July 1, 1987.

Sec. 80. Chapter 261C, Code 1989, is repealed June 30, 1990.

Sec. 81. Chapter 442, Code 1991, is repealed June 30, 1991.

Approved June 9, 1987

CHAPTER 225

GROUNDWATER QUALITY

H.F. 631

AN ACT relating to public health and safety by establishing measures to improve and protect groundwater quality and to manage substances which pose health and safety hazards, by establishing goals, policies, funding mechanisms, including taxes and fees, and administrative provisions for the measures, by establishing programs relating to the management of agricultural activities, solid waste disposal, household hazardous wastes, storage tanks, fertilizers, pesticides, landfills, and watersheds, by providing penalties, establishing effective dates, making appropriations, and by providing for other properly related matters.

Be It Enacted by the General Assembly of the State of Iowa:

PART ONE — GENERAL PROVISIONS

Chapter 455E

GROUNDWATER PROTECTION

Section 101. NEW SECTION. 455E.1 TITLE.

This chapter shall be known and may be cited as the "Groundwater Protection Act".

Sec. 102. NEW SECTION. 455E.2 DEFINITIONS.

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

1. "Groundwater" means any water of the state, as defined in section 455B.171, which occurs beneath the surface of the earth in a saturated geological formation of rock or soil.
2. "Department" means the department of natural resources created under section 455A.2.
3. "Director" means the director of the department.
4. "Commission" means the environmental protection commission created under section 455A.6.
5. "Contamination" means the direct or indirect introduction into groundwater of any contaminant caused in whole or in part by human activities.

6. "Contaminant" means any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste, or other substance which does not occur naturally in groundwater or which naturally occurs at a lower concentration.

7. "Active cleanup" means removal, treatment, or isolation of a contaminant from groundwater through the directed efforts of humans.

8. "Passive cleanup" means the removal or treatment of a contaminant in groundwater through management practices or the construction of barriers, trenches, and other similar facilities for prevention of contamination, as well as the use of natural processes such as groundwater recharge, natural decay, and chemical or biological decomposition.

Sec. 103. NEW SECTION. 455E.3 FINDINGS.

The general assembly finds that:

1. Groundwater is a precious and vulnerable natural resource. The vast majority of persons in the state depend on groundwater as a drinking water source. Agriculture, commerce, and industry also depend heavily on groundwater. Historically, the majority of Iowa's groundwater has been usable for these purposes without treatment. Protection of groundwater is essential to the health, welfare, and economic prosperity of all citizens of the state.

2. Many activities of humans, including the manufacturing, storing, handling, and application to land of pesticides and fertilizers; the disposal of solid and hazardous wastes; the storing and handling of hazardous substances; and the improper construction and the abandonment of wells and septic systems have resulted in groundwater contamination throughout the state.

3. Knowledge of the health effects of contaminants varies greatly. The long-term detriment to human health from synthetic organic compounds in particular is largely unknown but is of concern.

4. Any detectable quantity of a synthetic organic compound in groundwater is unnatural and undesirable.

5. The movement of groundwater, and the movement of contaminants in groundwater, is often difficult to ascertain or control. Decontamination is difficult and expensive to accomplish. Therefore, preventing contamination of groundwater is of paramount importance.

Sec. 104. NEW SECTION. 455E.4 GROUNDWATER PROTECTION GOAL.

The intent of the state is to prevent contamination of groundwater from point and nonpoint sources of contamination to the maximum extent practical, and if necessary to restore the groundwater to a potable state, regardless of present condition, use, or characteristics.

Sec. 105. NEW SECTION. 455E.5 GROUNDWATER PROTECTION POLICIES.

1. It is the policy of the state to prevent further contamination of groundwater from any source to the maximum extent practical.

2. The discovery of any groundwater contamination shall require appropriate actions to prevent further contamination. These actions may consist of investigation and evaluation or enforcement actions if necessary to stop further contamination as required under chapter 455B.

3. All persons in the state have the right to have their lawful use of groundwater unimpaired by the activities of any person which render the water unsafe or unpotable.

4. All persons in the state have the duty to conduct their activities so as to prevent the release of contaminants into groundwater.

5. Documentation of any contaminant which presents a significant risk to human health, the environment, or the quality of life shall result in either passive or active cleanup. In both cases, the best technology available or best management practices shall be utilized. The department shall adopt rules which specify the general guidelines for determining the cleanup actions necessary to meet the goals of the state and the general procedures for determining the parties responsible by July 1, 1989. Until the rules are adopted, the absence of rules shall not be raised as a defense to an order to clean up a source of contamination.

6. Adopting health-related groundwater standards may be of benefit in the overall groundwater protection or other regulatory efforts of the state. However, the existence of such standards, or lack of them, shall not be construed or utilized in derogation of the groundwater protection goal and protection policies of the state.

7. The department shall take actions necessary to promote and assure public confidence and public awareness. In pursuing this goal, the department shall make public the results of groundwater investigations.

8. Education of the people of the state is necessary to preserve and restore groundwater quality. The content of this groundwater protection education must assign obligations, call for sacrifice, and change some current values. Educational efforts should strive to establish a conservation ethic among Iowans and should encourage each Iowan to go beyond enlightened self-interest in the protection of groundwater quality.

Sec. 106. NEW SECTION. 455E.6 LEGAL EFFECTS.

This chapter supplements other legal authority and shall not enlarge, restrict, or abrogate any remedy which any person or class of persons may have under other statutory or common law and which serves the purpose of groundwater protection. An activity that does not violate chapter 455B does not violate this chapter. In the event of a conflict between this section and another provision of this chapter, it is the intent of the general assembly that this section prevails.

Liability shall not be imposed upon an agricultural producer for the costs of active cleanup, or for any damages associated with or resulting from the detection in the groundwater of any quantity of nitrates provided that application has been in compliance with soil test results and that the applicator has properly complied with label instructions for application of the fertilizer. Compliance with the above provisions may be raised as an affirmative defense by an agricultural producer.

Liability shall not be imposed upon an agricultural producer for costs of active cleanup, or for any damages associated with or resulting from the detection in the groundwater of pesticide provided that the applicator has properly complied with label instructions for application of the pesticide and that the applicator has a valid appropriate applicator's license. Compliance with the above provisions may be raised as an affirmative defense by an agricultural producer.

Sec. 107. NEW SECTION. 455E.7 PRIMARY ADMINISTRATIVE AGENCY.

The department is designated as the agency to coordinate and administer groundwater protection programs for the state.

Sec. 108. NEW SECTION. 455E.8 POWERS AND DUTIES OF THE DIRECTOR.

In addition to other groundwater protection duties, the director, in cooperation with soil district commissioners and with other state and local agencies, shall:

1. Develop and administer a comprehensive groundwater monitoring network, including point of use, point of contamination, and problem assessment monitoring sites across the state, and the assessment of ambient groundwater quality.

2. Include in the annual report required by section 455A.4, the number and concentration of contaminants detected in groundwater. This information shall also be provided to the director of public health and the secretary of agriculture.

3. Report any data concerning the contamination of groundwater by a contaminant not regulated under the federal Safe Drinking Water Act, 42 U.S.C. § 300(f) et seq. to the United States environmental protection agency along with a request to establish a maximum contaminant level and to conduct a risk assessment for the contaminant.

4. Complete groundwater hazard mapping of the state and make the results available to state and local planning organizations by July 1, 1991.

5. Establish a system or systems within the department for collecting, evaluating, and disseminating groundwater quality data and information.

6. Develop and maintain a natural resource geographic information system and comprehensive water resource data system. The system shall be accessible to the public.

7. Develop and adopt by administrative rule, criteria for evaluating groundwater protection programs by July 1, 1988.

8. Take any action authorized by law, including the investigatory and enforcement actions authorized by chapter 455B, to implement the provisions of this chapter and the rules adopted pursuant to this chapter.

9. Disseminate data and information, relative to this chapter, to the public to the greatest extent practical.

10. Develop a program, in consultation with the department of education and the department of environmental education of the University of Northern Iowa, regarding water quality issues which shall be included in the minimum program required in grades seven and eight pursuant to section 256.11, subsection 4.

Sec. 109. NEW SECTION. 455E.9 POWERS AND DUTIES OF THE COMMISSION.

1. The commission shall adopt rules to implement this chapter.

2. When groundwater standards are proposed by the commission, all available information to develop the standards shall be considered, including federal regulations and all relevant information gathered from other sources. A public hearing shall be held in each congressional district prior to the submittal of a report on standards to the general assembly. This report on how groundwater standards may be a part of a groundwater protection program shall be submitted by the department to the general assembly for its consideration by January 1, 1989.

Sec. 110. NEW SECTION. 455E.10 JOINT DUTIES — LOCAL AUTHORITY.

1. All state agencies shall consider groundwater protection policies in the administration of their programs. Local agencies shall consider groundwater protection policies in their programs. All agencies shall cooperate with the department in disseminating public information and education materials concerning the use and protection of groundwater, in collecting groundwater management data, and in conducting research on technologies to prevent or remedy contamination of groundwater.

2. Political subdivisions are authorized and encouraged to implement groundwater protection policies within their respective jurisdictions, provided that implementation is at least as stringent but consistent with the rules of the department.

Sec. 111. NEW SECTION. 455E.11 GROUNDWATER PROTECTION FUND ESTABLISHED.

1. A groundwater protection fund is created in the state treasury. Moneys received from sources designated for purposes related to groundwater monitoring and groundwater quality standards shall be deposited in the fund. Notwithstanding section 8.33, any unexpended balances in the groundwater protection fund and in any of the accounts within the groundwater protection fund at the end of each fiscal year shall be retained in the fund and the respective accounts within the fund. The fund may be used for the purposes established for each account within the fund.

The director shall include in the departmental budget prepared pursuant to section 455A.4, subsection 1, paragraph "c", a proposal for the use of groundwater protection fund moneys, and a report of the uses of the groundwater protection fund moneys appropriated in the previous fiscal year.

The secretary of agriculture shall submit with the report prepared pursuant to section 17.3 a proposal for the use of groundwater protection fund moneys, and a report of the uses of the groundwater protection fund moneys appropriated in the previous fiscal year.

2. The following accounts are created within the groundwater protection fund:

a. A solid waste account. Moneys received from the tonnage fee imposed under section

455B.310 and from other sources designated for environmental protection purposes in relation to sanitary disposal projects shall be deposited in the solid waste account.

The department shall use the funds in the account for the following purposes:

(1) The first fifty cents per ton of funds received from the tonnage fee imposed under section 455B.310 for the fiscal year beginning July 1, 1988 and ending June 30, 1989, shall be used for the following:

(a) Six cents per ton of the amount allocated under this subparagraph is appropriated to the waste management authority within the department of natural resources.

(b) Fourteen cents per ton of the amount allocated under this subparagraph is appropriated to the University of Northern Iowa to develop and maintain the small business assistance center for the safe and economic management of solid waste and hazardous substances established at the University of Northern Iowa.

(c) Eight thousand dollars of the amount allocated under this subparagraph is appropriated to the Iowa department of public health for carrying out the departmental duties pursuant to section 135.11, subsections 20 and 21, and section 139.35.

(d) The remainder of the amount allocated under this subparagraph is appropriated to the department of natural resources for the following purposes:

(i) The development of guidelines for groundwater monitoring at sanitary disposal projects as defined in section 455B.301, subsection 3.

(ii) Abatement and cleanup of threats to the public health, safety, and the environment resulting from a sanitary landfill if an owner or operator of the landfill is unable to facilitate the abatement or cleanup. However, not more than ten percent of the total funds allocated under this subparagraph may be used for this purpose without legislative authorization.

(2) An additional fifty cents per ton from the fees imposed under section 455B.310 for the fiscal year beginning July 1, 1988 and ending June 30, 1989 shall be used by the department to develop and implement demonstration projects for landfill alternatives to solid waste disposal including recycling programs.

(3) The additional fifty cents per ton collected from the fee imposed under section 455B.310 for the fiscal year beginning July 1, 1988 and ending June 30, 1989 may be retained by the agency making the payments to the state provided that a separate account is established for these funds and that they are used in accordance with the requirements of section 455B.306.

(4) The first fifty cents per ton of funds received from the tonnage fee imposed under section 455B.310 for the fiscal year beginning July 1, 1989 and ending June 30, 1990, shall be used for the following:

(a) Six cents per ton of the amount allocated under this subparagraph is appropriated to the waste management authority within the department of natural resources.

(b) Fourteen cents per ton of the amount allocated under this subparagraph is appropriated to the University of Northern Iowa to develop and maintain the small business assistance center for the safe and economic management of solid waste and hazardous substances established at the University of Northern Iowa.

(c) Eight thousand dollars of the amount allocated under this subparagraph is appropriated to the Iowa department of public health for carrying out the departmental duties pursuant to section 135.11, subsections 20 and 21, and section 139.35.

(d) The remainder of the amount allocated under this subparagraph is appropriated to the department of natural resources for the following purposes:

(i) The development of guidelines for groundwater monitoring at sanitary disposal projects as defined in section 455B.301, subsection 3.

(ii) Abatement and cleanup of threats to the public health, safety, and the environment resulting from a sanitary landfill if an owner or operator of the landfill is unable to facilitate the abatement or cleanup. However, not more than ten percent of the total funds allocated under this subparagraph may be used for this purpose without legislative authorization.

(5) One dollar per ton from the fees imposed under section 455B.310 for the fiscal year beginning July 1, 1989 and ending June 30, 1990 shall be used by the department to develop and implement demonstration projects for landfill alternatives to solid waste disposal including recycling programs.

(6) The additional fifty cents per ton collected from the fee imposed under section 455B.310 for the fiscal year beginning July 1, 1989 and ending June 30, 1990 may be retained by the agency making the payments to the state provided that a separate account is established for these funds and that they are used in accordance with the requirements of section 455B.306.

(7) The first fifty cents per ton of funds received from the tonnage fee imposed for the fiscal year beginning July 1, 1990 and thereafter shall be used for the following:

(a) Fourteen cents per ton of the amount allocated under this subparagraph is appropriated to the University of Northern Iowa to develop and maintain the small business assistance center for the safe and economic management of solid waste and hazardous substances established at the University of Northern Iowa.

(b) Eight thousand dollars of the amount allocated under this subparagraph is appropriated to the Iowa department of public health for carrying out the departmental duties pursuant to section 135.11, subsections 20 and 21, and section 139.35.

(c) The administration and enforcement of a groundwater monitoring program and other required programs which are related to solid waste management.

(d) The development of guidelines for groundwater monitoring at sanitary disposal projects as defined in section 455B.301, subsection 3.

(e) Abatement and cleanup of threats to the public health, safety, and the environment resulting from a sanitary landfill if an owner or operator of the landfill is unable to facilitate the abatement or cleanup. However, not more than ten percent of the total funds allocated under this subparagraph may be used for this purpose without legislative authorization.

(8) One dollar per ton from the fees imposed under section 455B.310 for the fiscal year beginning July 1, 1990 and thereafter shall be used by the department to develop and implement demonstration projects for landfill alternatives to solid waste disposal including recycling programs.

(9) Each additional fifty cents per ton per year of funds received from the tonnage fee for the fiscal period beginning July 1, 1990 and thereafter is allocated for the following purposes:

(a) Thirty-five cents per ton per year shall be allocated to the department of natural resources for the following purposes:

(i) Twenty-five cents per ton per year shall be used to develop and implement demonstration projects for landfill alternatives to solid waste disposal including recycling programs.

(ii) No more than ten cents of the thirty-five cents per year may be used for the administration of a groundwater monitoring program and other required programs which are related to solid waste management, if the amount of funds generated for administrative costs in this fiscal period is less than the amount generated for the costs in the fiscal year beginning July 1, 1988.

(b) Fifteen cents per ton per year shall be allocated to local agencies for use as provided by law.

(10) Cities, counties, and private agencies subject to fees imposed under section 455B.310 may use the funds collected in accordance with the provisions of this section and the conditions of this subsection. The funds used from the account may only be used for any of the following purposes:

(a) Development and implementation of an approved comprehensive plan.

(b) Development of a closure or postclosure plan.

(c) Development of a plan for the control and treatment of leachate which may include a facility plan or detailed plans and specifications.

(d) Preparation of a financial plan, but these funds may not be used to actually contribute to any fund created to satisfy financial requirements, or to contribute to the purchase of any instrument to meet this need.

On January 1 of the year following the first year in which the funds from the account are used, and annually thereafter, the agency shall report to the department as to the amount of the funds used, the exact nature of the use of the funds, and the projects completed. The report shall include an audit report which states that the funds were, in fact, used entirely for purposes authorized under this subsection.

(11) If moneys appropriated to the portion of the solid waste account to be used for the administration of groundwater monitoring programs and other required programs that are related to solid waste management remain unused at the end of any fiscal year, the moneys remaining shall be allocated to the portion of the account used for abatement and cleanup of threats to the public health, safety, and the environment, resulting from sanitary landfills. If the balance of the moneys in the portion of the account used for abatement and cleanup exceeds three million dollars, the moneys in excess shall be used to fund the development and implementation of demonstration projects for landfill alternatives to solid waste disposal including recycling.

The agriculture management account shall be used for the following purposes:

(1) Nine thousand dollars of the account is appropriated to the Iowa department of public health for carrying out the departmental duties under section 135.11, subsections 20 and 21, and section 139.35.

(2) Of the remaining moneys in the account:

(a) Thirty-five percent is appropriated annually for the Leopold center for sustainable agriculture at Iowa State University of science and technology.

(b) Two percent is appropriated annually to the department of natural resources for the purpose of administering grants to counties and conducting oversight of county-based programs relative to the testing of private water supply wells and the proper closure of private abandoned wells. Not more than twenty-three percent of the moneys is appropriated annually to the department of natural resources for grants to counties for the purpose of conducting programs of private, rural water supply testing, not more than six percent of the moneys is appropriated annually to the state hygienic laboratory to assist in well testing, and not more than twelve percent of the moneys is appropriated annually to the department of natural resources for grants to counties for the purpose of conducting programs for properly closing abandoned, rural water supply wells.

(c) The department shall allocate a sum not to exceed seventy-nine thousand dollars of the moneys appropriated for the fiscal year beginning July 1, 1987, and ending June 30, 1988 for the preparation of a detailed report and plan for the establishment on July 1, 1988 of the center for health effects of environmental contamination. The plan for establishing the center shall be presented to the general assembly on or before January 15, 1988. The report shall include the assemblage of all existing data relating to Iowa drinking water supplies, including characteristics of source, treatment, presence of contaminants, precise location, and usage patterns to facilitate data retrieval and use in research; and detailed organizational plans, research objectives, and budget projections for the anticipated functions of the center in subsequent years. The department may allocate annually a sum not to exceed nine percent of the moneys appropriated to the center, beginning July 1, 1988.

(d) Thirteen percent of the moneys is appropriated annually to the department of agriculture and land stewardship for financial incentive programs related to agricultural drainage wells and sinkholes, for studies and administrative costs relating to sinkholes and agricultural drainage wells programs, and not more than two hundred thousand dollars of the moneys is appropriated for the demonstration projects regarding agricultural drainage wells and sinkholes. Of the thirteen percent allocated for financial incentive programs, not more than fifty thousand dollars is appropriated for the fiscal year beginning July 1, 1987 and ending June

30, 1988, to the department of natural resources for grants to county conservation boards for the development and implementation of projects regarding alternative practices in the remediation of noxious weed or other vegetation within highway rights-of-way.

(e) A household hazardous waste account. The moneys collected pursuant to section 455F.7 shall be deposited in the household hazardous waste account. Two thousand dollars is appropriated annually to the Iowa department of public health to carry out departmental duties under section 135.11, subsections 20 and 21, and section 139.35, eighty thousand dollars is appropriated to the department of natural resources for city, county, or service organization project grants relative to recycling and reclamation events, and eight thousand dollars is appropriated to the department of transportation for the period of October 1, 1987 through June 30, 1989 for the purpose of conducting the used oil collection pilot project. The remainder of the account shall be used to fund Toxic Cleanup Days programs, education programs, and other activities pursuant to chapter 455F, including the administration of the household hazardous materials permit program by the department of revenue and finance.

(f) A storage tank management account. All fees collected pursuant to section 455B.473, subsection 4, and section 455B.479, shall be deposited in the storage tank management account. Funds shall be expended for the following purposes:

(1) One thousand dollars is appropriated annually to the Iowa department of public health to carry out departmental duties under section 135.11, subsections 20 and 21, and section 139.35.

(2) Seventy percent of the moneys deposited in the account annually are appropriated to the department of natural resources for the administration of a state storage tank program pursuant to chapter 455B, division IV, part 8, and for programs which reduce the potential for harm to the environment and the public health from storage tanks.

(3) For the fiscal year beginning July 1, 1987, and ending June 30, 1988, twenty-five thousand dollars is appropriated from the account to the division of insurance for payment of costs incurred in the establishment of the plan of operations program regarding the financial responsibility of owners and operators of underground storage tanks which store petroleum.

(4) The remaining funds in the account are appropriated annually to the department of natural resources for the funding of state remedial cleanup efforts.

(g) An oil overcharge account. The oil overcharge moneys distributed by the United States department of energy, and approved for the energy related components of the groundwater protection strategy available through the energy conservation trust fund created in section 93.11, shall be deposited in the oil overcharge account as appropriated by the general assembly. The oil overcharge account shall be used for the following purposes:

(1) The following amounts are appropriated to the department of natural resources to implement its responsibilities pursuant to section 455E.8:

(a) For the fiscal year beginning July 1, 1987 and ending June 30, 1988, eight hundred sixty thousand dollars is appropriated.

(b) For the fiscal year beginning July 1, 1988 and ending June 30, 1989, six hundred fifty thousand dollars is appropriated.

(c) For the fiscal year beginning July 1, 1989 and ending June 30, 1990, six hundred thousand dollars is appropriated.

(d) For the fiscal year beginning July 1, 1990 and ending June 30, 1991, five hundred thousand dollars is appropriated.

(e) For the fiscal year beginning July 1, 1991 and ending June 30, 1992, five hundred thousand dollars is appropriated.

(2) For the fiscal year beginning July 1, 1987 and ending June 30, 1988, five hundred sixty thousand dollars is appropriated to the department of natural resources for assessing rural, private water supply quality.

(3) For the fiscal period beginning July 1, 1987 and ending June 30, 1989, one hundred thousand dollars is appropriated annually to the department of natural resources for the administration of a groundwater monitoring program at sanitary landfills.

(4) The following amounts are appropriated to the Iowa state water resources research institute to provide competitive grants to colleges, universities, and private institutions within the state for the development of research and education programs regarding alternative disposal methods and groundwater protection:

(a) For the fiscal year beginning July 1, 1987 and ending June 30, 1988, one hundred twenty thousand dollars is appropriated.

(b) For the fiscal year beginning July 1, 1988 and ending June 30, 1989, one hundred thousand dollars is appropriated.

(c) For the fiscal year beginning July 1, 1989 and ending June 30, 1990, one hundred thousand dollars is appropriated.

(5) The following amounts are appropriated to the department of natural resources to develop and implement demonstration projects for landfill alternatives to solid waste disposal, including recycling programs:

(a) For the fiscal year beginning July 1, 1987 and ending June 30, 1988, seven hundred sixty thousand dollars is appropriated.

(b) For the fiscal year beginning July 1, 1988 and ending June 30, 1989, eight hundred fifty thousand dollars is appropriated.

(6) For the fiscal period beginning July 1, 1987 and ending June 30, 1988, eight hundred thousand dollars is appropriated to the Leopold center for sustainable agriculture.

(7) Seven million five hundred thousand dollars is appropriated to the agriculture energy management fund created under chapter 467E for the fiscal period beginning July 1, 1987 and ending June 30, 1992, to develop nonregulatory programs to implement integrated farm management of farm chemicals for environmental protection, energy conservation, and farm profitability; interactive public and farmer education; and applied studies on best management practices and best appropriate technology for chemical use efficiency and reduction.

(8) The following amounts are appropriated to the department of natural resources to continue the Big Spring demonstration project in Clayton county.

(a) For the fiscal period beginning July 1, 1987 and ending June 30, 1990, seven hundred thousand dollars is appropriated annually.

(b) For the fiscal period beginning July 1, 1990 and ending June 30, 1992, five hundred thousand dollars is appropriated annually.

(9) For the fiscal period beginning July 1, 1987 and ending June 30, 1990, one hundred thousand dollars is appropriated annually to the department of agriculture and land stewardship to implement a targeted education program on best management practices and technologies for the mitigation of groundwater contamination from or closure of agricultural drainage wells, abandoned wells, and sinkholes.

Sec. 112. Section 455B.172, subsection 2, Code 1987, is amended by striking the subsection and inserting in lieu thereof the following:

2. The department shall carry out the responsibilities of the state related to private water supplies and private sewage disposal systems for the protection of the environment and the public health and safety of the citizens of the state.

Sec. 113. Section 455B.172, Code 1987, is amended by adding the following new subsections after subsection 2 and renumbering the subsequent subsections:

NEW SUBSECTION. 3. Each county board of health shall adopt standards for private water supplies and private sewage disposal facilities. These standards shall be at least as stringent but consistent with the standards adopted by the commission. If a county board of health has not adopted standards for private water supplies and private sewage disposal facilities, the standards adopted by the commission shall be applied and enforced within the county by the county board of health.

NEW SUBSECTION. 4. Each county board of health shall regulate the private water supply and private sewage disposal facilities located within the county board's jurisdiction, including the enforcement of standards adopted pursuant to this section.

NEW SUBSECTION. 5. The department shall maintain jurisdiction over and regulate the direct discharge to a water of the state. The department shall retain concurrent authority to enforce state standards for private water supply and private sewage disposal facilities within a county, and exercise departmental authority if the county board of health fails to fulfill board responsibilities pursuant to this section.

The commission shall make grants to counties for the purpose of conducting programs for the testing of private, rural water supply wells and for the proper closing of abandoned, rural, private water supply wells within the jurisdiction of the county. Grants shall be funded through allocation of the agriculture management account of the groundwater protection fund. Grants awarded, continued, or renewed shall be subject to the following conditions:

a. An application for a grant shall be in a form and shall contain information as prescribed by rule of the commission.

b. Nothing in this section shall be construed to prohibit the department from making grants to one or more counties to carry out the purpose of the grant on a joint, multicounty basis.

c. A grant shall be awarded on an annual basis to cover a fiscal year from July 1 to June 30 of the following calendar year.

d. The continuation or renewal of a grant shall be contingent upon the county's acceptable performance in carrying out its responsibilities, as determined by the director. The director, subject to approval by the commission, may deny the awarding of a grant or withdraw a grant awarded if, by determination of the director, the county has not carried out the responsibilities for which the grant was awarded, or cannot reasonably be expected to carry out the responsibilities for which the grant would be awarded.

Sec. 114. Section 455B.173, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Adopt, modify, or repeal rules relating to the awarding of grants to counties for the purpose of carrying out responsibilities pursuant to section 455B.172 relative to private water supplies and private sewage disposal facilities.

Sec. 115. Section 455B.311, unnumbered paragraph 1, Code 1987, is amended to read as follows:

The director, with the approval of the commission, may make grants to cities, counties, or central planning agencies representing cities and counties or combinations of cities, counties, or central planning agencies from funds reserved under and for the purposes specified in section ~~455B.309~~, subsection 4 455E.11, subsection 2, paragraph "a", subject to all of the following conditions:

Sec. 116. Section 455B.309, Code 1987, is repealed.

PART TWO – PESTICIDES AND FERTILIZER

Sec. 201. Section 89B.4, subsection 1, Code 1987, is amended to read as follows:

1. Except for section 89B.9, this chapter does not apply to a person engaged in farming as defined in this section; or a pesticide, as defined in section 206.2, subsection 1, used, stored, or available for sale by a ~~commercial applicator as defined in section 206.2, subsection 12, a certified applicator as defined in section 206.2, subsection 17, a certified private applicator as defined in section 206.2, subsection 18,; a certified commercial applicator as defined in section 206.2, subsection 19, a pesticide dealer as defined in section 206.2, subsection 24, or to activities which are covered under the federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 135 et seq.; provided, however, that~~ However, such persons shall comply with the requirements of the regulations for the federal Insecticide, Fungicide, and Rodenticide Act, 40 C.F.R. § 170, and the requirements of and rules adopted under chapter 206 where applicable to such

the persons. As used in this section, "farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing or the production of livestock, spraying, or harvesting. The department of agriculture and land stewardship shall cooperate with the division in an investigation of an agricultural employee's complaint filed pursuant to section 89B.9.

Sec. 202. Section 135.11, Code 1987, is amended by adding the following new subsections:
NEW SUBSECTION. 20. Establish, publish, and enforce rules requiring prompt reporting of methemoglobinemia, pesticide poisoning, and the reportable poisonings and illnesses established pursuant to section 139.35.

NEW SUBSECTION. 21. Collect and maintain reports of pesticide poisonings and other poisonings, illnesses, or injuries caused by selected chemical or physical agents, including methemoglobinemia and pesticide and fertilizer hypersensitivity; and compile and publish, annually, a statewide and county-by-county profile based on the reports.

Sec. 203. NEW SECTION. 139.35 REPORTABLE POISONINGS AND ILLNESSES.

1. If the results of an examination by a public, private, or hospital clinical laboratory of a specimen from a person in Iowa yield evidence of or are reactive for a reportable poisoning or a reportable illness from a toxic agent, including methemoglobinemia, the results shall be reported to the Iowa department of public health on forms prescribed by the department. If the laboratory is located in Iowa, the person in charge of the laboratory shall report the results. If the laboratory is not in Iowa, the health care provider submitting the specimen shall report the results.

2. The physician or other health practitioner attending a person infected with a reportable poisoning or a reportable illness from a toxic agent, including methemoglobinemia, shall immediately report the case to the Iowa department of public health. The Iowa department of public health shall publish and distribute instructions concerning the method of reporting. Reports shall be made in accordance with rules adopted by the Iowa department of public health.

3. A person in charge of a poison control or poison information center shall report cases of reportable poisoning, including methemoglobinemia, about which they receive inquiries to the Iowa department of public health.

4. The Iowa department of public health shall adopt rules designating reportable poisonings, including methemoglobinemia, and illnesses which must be reported under this section.

5. The Iowa department of public health shall establish and maintain a central registry to collect and store data reported pursuant to this section.

Sec. 204. Section 177.2, subsection 1, Code 1987, is amended to read as follows:

1. To encourage the use of good agricultural practices in crop production, including best management practices for applying fertilizer and pesticide, and to conserve, maintain, and improve soil productivity.

Sec. 205. Section 200.4, Code 1987, is amended to read as follows:

200.4 LICENSES.

1. Any person who manufactures, mixes, blends, ~~or mixes to customers order~~, ~~offers for sale~~, ~~sells~~, ~~or distributes~~ any fertilizer or soil conditioner ~~offered for sale, sold, or distributed~~ in Iowa must first obtain a license from the secretary of agriculture and shall pay a ten-dollar license fee for each ~~plant or place of manufacture, or distribution~~ from which fertilizer or soil conditioner products are sold or distributed in Iowa. Such license fee shall be paid annually on July 1 of each year ~~and the manufacturer, blender or mixer shall at the same time, list the name and address of each such plant or place of manufacture, from which sale or distribution is made.~~

~~This subsection shall not apply to a manufacturer who manufactures "specialty fertilizer" only, as defined in section 200.3, subsection 5, in packages of twenty-five pounds or less.~~

2. Said licensee shall at all times produce an intimate and uniform mixture of fertilizers or soil conditioners. When two or more fertilizer materials are delivered in the same load, they shall be thoroughly and uniformly mixed unless they are in separate compartments.

Sec. 206. Section 200.8, Code 1987, is amended to read as follows:

200.8 INSPECTION FEES.

1. There shall be paid by the licensee to the secretary for all commercial fertilizers and soil conditioners sold, or distributed in this state, an inspection fee to be fixed annually by the secretary of agriculture at not more than twenty cents per ton: ~~Except sales. Sales for manufacturing purposes only are hereby exempted from fees but must still be reported showing manufacturer who purchased same.~~ Payment of said inspection fee by any licensee shall exempt all other persons, firms or corporations from the payment thereof.

On individual packages of specialty fertilizer containing twenty-five pounds or less, there shall be paid by the manufacturer in lieu of the annual license fee and the semiannual inspection fee as set forth in this chapter, an annual registration and inspection fee of ~~twenty-five~~ one hundred dollars for each brand and grade sold or distributed in the state. In the event that any ~~person~~ manufacturer sells specialty fertilizer in packages of twenty-five pounds or less and also in packages of more than twenty-five pounds, this annual registration and inspection fee shall apply only to that portion sold in packages of twenty-five pounds or less, and that portion sold in packages of more than twenty-five pounds shall be subject to the same inspection fee as fixed by the secretary of agriculture as provided in this chapter.

Any person other than a manufacturer who offers for sale, sells, or distributes specialty fertilizer in packages of twenty-five pounds or less or applies specialty fertilizer for compensation shall be required to pay an annual inspection fee of fifty dollars in lieu of the semiannual inspection fee as set forth in this chapter.

2. Every licensee and any person required to pay an annual registration and inspection fee under this chapter in this state shall:

a. File not later than the last day of January and July of each year, on forms furnished by secretary, a semiannual statement setting forth the number of net tons of commercial fertilizer or soil conditioners distributed in this state by grade for each county during the preceding six months' period; and upon filing such statement shall pay the inspection fee at the rate stated in subsection 1 of this section. However, in lieu of the semiannual statement by grade for each county, as hereinabove provided for, the registrant, on individual packages of ~~commercial~~ specialty fertilizer containing twenty-five pounds or less, shall file not later than the last day of July of each year, on forms furnished by the secretary, an annual statement setting forth the number of net tons of ~~commercial~~ specialty fertilizer distributed in this state by grade during the preceding twelve-month period, ~~but no inspection fee shall be due thereon.~~

b. If the tonnage report is not filed or the payment of inspection fees, or both, is not made within ten days after the last day of January and July of each year as required in paragraph "a" of this subsection, a penalty amounting to ten percent of the amount due, if any, shall be assessed against the licensee. In any case, the penalty shall be no less than fifty dollars. The amount of fees due, if any, and penalty shall constitute a debt and become the basis of a judgment against the licensee.

3. If there is an unencumbered balance of funds in the fertilizer fund on June 30 of any fiscal year equal to or exceeding three hundred fifty thousand dollars, the secretary of agriculture shall reduce the per ton fee provided for in subsection 1 and the annual license fee established pursuant to section 201.3 for the next fiscal year in such amount as will result in an ending estimated balance for the June 30 of the next fiscal year of three hundred fifty thousand dollars.

Sec. 207. Section 200.8, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In addition to the fees imposed under subsection 1, a groundwater protection fee shall be imposed upon nitrogen-based fertilizer. The fee shall be based upon

the percentage of actual nitrogen contained in the product. An eighty-two percent nitrogen solution shall be taxed at a rate of seventy-five cents per ton. Other nitrogen-based product formulations shall be taxed on the percentage of actual nitrogen contained in the formulations with the eighty-two percent nitrogen solution serving as the base. The fee shall be paid by each licensee registering to sell fertilizer to the secretary of agriculture. The fees collected shall be deposited in the agriculture management account of the groundwater protection fund. The secretary of agriculture shall adopt rules for the payment, filing, and collection of groundwater protection fees from licensees in conjunction with the collection of registration and inspection fees. The secretary shall, by rule allow an exemption to the payment of this fee for fertilizers which contain trace amounts of nitrogen.

Sec. 208. Section 200.9, Code 1987, is amended to read as follows:

200.9 FERTILIZER FUND.

Fees collected for licenses and inspection fees under sections 200.4 and 200.8, with the exception of those fees collected for deposit in the agriculture management account of the groundwater protection fund, shall be deposited in the treasury to the credit of the fertilizer fund to be used only by the department for the purpose of inspection, sampling, analysis, preparation, and publishing of reports and other expenses necessary for administration of this chapter. The secretary may assign moneys to the Iowa agricultural experiment station for research, work projects, and investigations as may be needed for the specific purpose of improving the regulatory functions for enforcement of this chapter.

Sec. 209. Section 206.2, subsection 12, Code 1987, is amended to read as follows:

12. ~~The term "commercial"~~ "Commercial applicator" shall mean means any person, or corporation, or employee of a person or corporation who enters into a contract or an agreement for the sake of monetary payment and agrees to perform a service by applying any pesticide or servicing any device but shall not include a farmer trading work with another, a person employed by a farmer not solely as a pesticide applicator who applies pesticide as an incidental part of the person's general duties, or a person who applies pesticide as an incidental part of a custom farming operation.

Sec. 210. Section 206.2, subsection 17, Code 1987, is amended to read as follows:

17. "Certified applicator" means any individual who is certified under this chapter as authorized to use ~~or supervise the use of any pesticide which is classified for restricted use.~~

Sec. 211. Section 206.2, subsection 18, Code 1987, is amended to read as follows:

18. "Certified private applicator" means a certified applicator who uses ~~or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity~~ on property owned or rented by the applicator or the applicator's employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

Sec. 212. Section 206.2, subsection 19, Code 1987, is amended to read as follows:

19. "Certified commercial applicator" means a pesticide applicator or individual who applies or uses a ~~restricted use pesticide or device for the purpose of producing any agricultural commodity or on any property of another for compensation.~~

Sec. 213. Section 206.2, subsection 24, Code 1987, is amended to read as follows:

24. The term "pesticide dealer" means any person who distributes ~~any restricted use pesticides which, by regulation, are restricted to application only by certified applicators; pesticide for use by commercial or public pesticide applicators; or general use pesticides labeled for agricultural or lawn and garden use with the exception of dealers whose gross annual pesticide sales are less than ten thousand dollars for each business location owned or operated by the dealer.~~

Sec. 214. Section 206.5, Code 1987, is amended to read as follows:

206.5 CERTIFICATION REQUIREMENTS.

No person shall A commercial or public applicator shall not apply any pesticide and a person shall not apply any restricted use pesticide without first complying with the certification requirements of this chapter and such other restrictions as determined by the secretary or being under the direct supervision of a certified applicator.

The secretary shall adopt, by rule, requirements for the examination, re-examination and certification of applicants and set a fee of not more than ten dollars for the certification program of commercial applicators and not more than five dollars for the certification program of private applicators.

The secretary may adopt rules for the training of applicators in co-operation with the co-operative extension service at Iowa State University of science and technology.

The secretary shall not require applicants for certification as private applicators to take and pass a written test, if the applicant instead shows proof that the applicant has attended an informational course of instruction approved by the secretary. The secretary shall provide for temporary certification for emergency purchases of restricted use products by requiring the purchaser to sign an affidavit, at the point of purchase, that the purchaser has read and understands the information on the label of the restricted use product being purchased.

Commercial and public applicators shall choose between one-year certification for which the applicator shall pay a twenty-five dollar fee or three-year certification for which the applicator shall pay a seventy-five dollar fee. Public applicators who are employed by a state agency shall be exempt from the twenty-five and seventy-five dollar certification fees and instead be subject to a five-dollar annual certification fee or a fifteen dollar fee for a three-year certification. The commercial or public applicator shall be tested prior to certification annually, if the applicator chooses a one-year certification or each three years if the applicator chooses three-year certification. A private applicator shall be tested prior to initial certification. The test shall include, but is not limited to, the area of safe handling of agricultural chemicals and the effects of these chemicals on groundwater. A person employed by a farmer not solely as a pesticide applicator who applies restricted use pesticides as an incidental part of the person's general duties or a person who applies restricted use pesticides as an incidental part of a custom farming operation is required to meet the certification requirements of a private applicator.

The secretary may adopt rules to provide for license and certification adjustments, including fees, which may be necessary to provide for an equitable transition for licenses and certifications issued prior to January 1, 1989. The rules shall also include a provision for renewal of certification through the administering of an approved exam, and a provision for a thirty-day renewal grace period.

Sec. 215. Section 206.6, subsection 3, Code 1987, is amended to read as follows:

3. EXAMINATION FOR COMMERCIAL APPLICATOR LICENSE. The secretary of agriculture shall not issue a commercial applicator license until the individual engaged in or managing the pesticide application business and employed by the business to apply pesticides is qualified certified by passing an examination to demonstrate to the secretary the individual's knowledge of how to apply pesticides under the classifications the individual has applied for, and the individual's knowledge of the nature and effect of pesticides the individual may apply under such classifications. The applicant successfully completing this examination the certification requirement shall be a licensed commercial applicator.

Sec. 216. Section 206.6, subsection 4, Code 1987, is amended to read as follows:

4. RENEWAL OF APPLICANT'S LICENSE. The secretary of agriculture shall renew any applicant's license under the classifications for which such applicant is licensed, provided that a program of training of all of the applicant's personnel who apply pesticides has been established and maintained by the licensee are certified commercial applicators. Such a program may include attending training sessions such as co-operative extension short courses or industry trade association training seminars.

Sec. 217. Section 206.6, subsection 6, paragraph b, Code 1987, is amended to read as follows:

b. Public applicators for agencies listed in this subsection shall be subject to examinations certification requirements as provided for in this section, ~~however, the secretary shall issue a limited license without a fee to such public applicator who has qualified for such license.~~ The public applicator license shall be valid only when such applicator is acting as an applicator applying or supervising the application of pesticides used by such entities. Government research personnel shall be exempt from this licensing requirement when applying pesticides only to experimental plots. Individuals Public agencies or municipal corporations licensed pursuant to this section shall be licensed public applicators.

Sec. 218. Section 206.7, subsection 1, Code 1987, is amended to read as follows:

1. REQUIREMENT FOR CERTIFICATION. ~~No~~ A commercial or public applicator shall not apply any restricted use pesticide without first complying with the certification standards or being under the direct supervision of a certified applicator.

Sec. 219. Section 206.8, subsections 2 and 3, Code 1987, are amended to read as follows:

2. Application for a license shall be accompanied by a twenty-five dollar A pesticide dealer shall pay a minimum annual license fee of twenty-five dollars or an annual license fee for the primary business location and an additional five dollar annual license fee for each other location or outlet within the state, and shall be on a form prescribed by the secretary and shall include the full name of the person applying for such license based on one-tenth of one percent of the gross retail sales of all pesticides sold by the pesticide dealer in the previous year. The annual license fee shall be paid to the department of agriculture and land stewardship, beginning July 1, 1988, and July 1 of each year thereafter. A licensee shall pay a fee of twenty-five dollars for the period July 1, 1987 through June 30, 1988.

The initial twenty-five dollars of each annual license fee shall be retained by the department for administration of the program, and the remaining moneys collected shall be deposited in the agriculture management account of the groundwater protection fund.

3. Provisions of this section shall ~~not~~ apply to a pesticide applicator who sells pesticides as an integral part of the applicator's pesticide application service, or any federal, state, county, or municipal agency which provides pesticides only for its own programs.

Sec. 220. Section 206.8, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Application for a license required for manufacturers and distributors who are not engaged in the retail sale of pesticides shall be accompanied by a twenty-five dollar fee for each business location within the state required to be licensed, and shall be on a form prescribed by the secretary.

Sec. 221. Section 206.9, Code 1987, is amended to read as follows:

206.9 CO-OPERATIVE AGREEMENTS.

The secretary may co-operate, receive grants-in-aid and enter into agreements with any agency of the federal government, of this state or its subdivisions, or with any agency of another state, or trade associations to obtain assistance in the implementation of this chapter and to do all of the following:

1. Secure uniformity of regulations;
2. Co-operate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement co-operative enforcement programs;
3. ~~Develop and administer state programs for training and certification of certified applicators consistent with federal standards;~~
4. ~~Contract for training with other agencies including federal agencies for the purpose of training certified applicators;~~
- 5 3. Contract for monitoring pesticides for the national plan;
- 6 4. Prepare and submit state plans to meet federal certification standards; ~~and,~~
- 7 5. Regulate certified applicators.

6. Develop, in conjunction with the Iowa cooperative extension service in agriculture and home economics, courses available to the public regarding pesticide best management practices.

Sec. 222. Section 206.12, subsection 3, Code 1987, is amended to read as follows:

3. The registrant, before selling or offering for sale any pesticide in this state, shall register each brand and grade of such pesticide with the secretary upon forms furnished by the secretary, and, ~~for the purpose of defraying expenses connected with the enforcement of this chapter,~~ the secretary shall set the registration fee annually at ~~no more than twenty one-fifth of one percent of gross sales within this state with a minimum fee of two hundred fifty dollars and a maximum fee of three thousand dollars for each and every brand and grade to be offered for sale in this state.~~ The secretary shall adopt by rule exemptions to the minimum fee. The fees Fifty dollars of each fee collected shall be deposited in the treasury to the credit of the pesticide fund to be used only for the purpose of enforcing the provisions of this chapter and the remainder of each fee collected shall be placed in the agriculture management account of the groundwater protection fund.

Sec. 223. Section 206.12, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Each licensee under section 206.6 or 206.8 shall file an annual report with the secretary of agriculture listing the amount and type of all pesticides sold, offered for sale, or distributed at retail for use in this state, or applied in this state during each month of the previous year. This report shall be filed at the time of payment for licensure or annually on or before July 1. The secretary, by rule, may specify the form of the report and require additional information deemed necessary to determine pesticide use within the state. The information required shall include the brand names and amounts of pesticides sold, offered for sale, or distributed at retail for use in this state for each business location owned or operated by the retailer, but the information collected, if made public, shall be reported in a manner which does not identify a specific brand name in the report.

Sec. 224. Section 206.19, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Determine in cooperation with municipalities, the proper notice to be given by a commercial or public applicator to occupants of adjoining properties in urban areas prior to or after the exterior application of pesticides, establish a schedule to determine the periods of application least harmful to living beings, and adopt rules to implement these provisions. Municipalities shall cooperate with the department by reporting infractions and in implementing this subsection.

NEW SUBSECTION. 3A. Adopt rules providing guidelines for public bodies to notify adjacent property occupants regarding the application of herbicides to noxious weeds or other undesirable vegetation within highway rights-of-way.

NEW SUBSECTION. 4. Establish civil penalties for violations by commercial applicators.

Sec. 225. Section 206.21, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The secretary of agriculture, in cooperation with the advisory committee created pursuant to section 206.23, shall designate areas with a history of concerns regarding nearby pesticide applications as pesticide management areas. The secretary shall adopt rules for designating pesticide management areas.

Sec. 226. NEW SECTION. 206.24 AGRICULTURAL INITIATIVE.

A program of education and demonstration in the area of the agricultural use of fertilizers and pesticides shall be initiated by the secretary of agriculture on July 1, 1987. The secretary shall coordinate the activities of the state regarding this program.

Education and demonstration programs shall promote the widespread adoption of management practices which protect groundwater. The programs may include but are not limited to programs targeted toward the individual farm owner or operator, high school and college students, and groundwater users, in the areas of best management practices, current research

findings, and health impacts. Emphasis shall be given to programs which enable these persons to demonstrate best management practices to their peers.

Sec. 227. NEW SECTION. 206.25 PESTICIDE CONTAINERS DISPOSAL.

The department of agriculture and land stewardship, in cooperation with the environmental protection division of the department of natural resources, shall develop a program for handling used pesticide containers which reflects the state solid waste management policy hierarchy, and shall present the program developed to the general assembly by February 1, 1988.

Sec. 228. NEW SECTION. 263.14 CENTER FOR HEALTH EFFECTS OF ENVIRONMENTAL CONTAMINATION.

1. The state board of regents shall establish and maintain at Iowa City as an integral part of the State University of Iowa the center for health effects of environmental contamination, having as its object the determination of the levels of environmental contamination which can be specifically associated with human health effects.

2. a. The center shall be a cooperative effort of representatives of the following organizations:

(1) The State University of Iowa department of preventative medicine and environmental health.

(2) The State University of Iowa department of pediatrics of the college of medicine.

(3) The state hygienic laboratory.

(4) The institute of agricultural medicine.

(5) The Iowa cancer center.

(6) The department of civil and environmental engineering.

(7) Appropriate clinical and basic science departments.

(8) The college of law.

(9) The college of liberal arts and sciences.

(10) The Iowa department of public health.

(11) The department of natural resources.

(12) The department of agriculture and land stewardship.

b. The active participation of the national cancer institute, the agency for toxic substances and disease registries, the national center for disease control, the United States environmental protection agency, and the United States geological survey, shall also be sought and encouraged.

3. The center may:

a. Assemble all pertinent laboratory data on the presence and concentration of contaminants in soil, air, water, and food, and develop a data retrieval system to allow the findings to be easily accessed by exposed populations.

b. Make use of data from the existing cancer and birth defect statewide recording systems and develop similar recording systems for specific organ diseases which are suspected to be caused by exposure to environmental toxins.

c. Develop registries of persons known to be exposed to environmental hazards so that the health status of these persons may be examined over time.

d. Develop highly sensitive biomedical assays which may be used in exposed persons to determine early evidence of adverse health effects.

e. Perform epidemiologic studies to relate occurrence of a disease to contaminant exposure and to ensure that other factors known to cause the disease in question can be ruled out.

f. Foster relationships and ensure the exchange of information with other teaching institutions or laboratories in the state which are concerned with the many forms of environmental contamination.

g. Implement programs of professional education and training of medical students, physicians, nurses, scientists, and technicians in the causes and prevention of environmentally induced disease.

h. Implement public education programs to inform persons of research results and the significance of the studies.

i. Respond as requested to any branch of government for consultation in the drafting of laws and regulations to reduce contamination of the environment.

4. An advisory committee consisting of one representative of each of the organizations enumerated in subsection 2, paragraph "a", a representative of the Iowa department of public health, and a representative of the department of natural resources is established. The advisory committee shall:

a. Employ, as a state employee, a full-time director to operate the center. The director shall coordinate the efforts of the heads of each of the major divisions of laboratory analysis, epidemiology and biostatistics, biomedical assays, and exposure modeling and shall also coordinate the efforts of professional and support staff in the operation of the center.

b. Submit an annual report of the activities of the center to the legislative council of the general assembly by January 15 of each year.

5. The center shall maintain the confidentiality of any information obtained from existing registries and from participants in research programs. Specific research projects involving human subjects shall be approved by the State University of Iowa institutional review board.

6. The center may solicit, accept, and administer moneys appropriated to the center by a public or private agency.

Sec. 229. NEW SECTION. 266.37 SOIL TEST INTERPRETATION.

The Iowa cooperative extension service in agriculture and home economics shall develop and publish material on the interpretation of the results of soil tests. The material shall also feature the danger to groundwater quality from the overuse of fertilizers and pesticides. The material shall be available from the service at cost and any person providing soil tests for agricultural or horticultural purposes shall provide the material to the customer with the soil test results.

Sec. 230. NEW SECTION. 266.38 LEOPOLD CENTER FOR SUSTAINABLE AGRICULTURE.

1. For the purposes of this section, "sustainable agriculture" means the appropriate use of crop and livestock systems and agricultural inputs supporting those activities which maintain economic and social viability while preserving the high productivity and quality of Iowa's land.

2. The Leopold center for sustainable agriculture is established in the Iowa agricultural and home economics experiment station at Iowa State University of science and technology. The center shall conduct and sponsor research to identify and reduce negative environmental and socio-economic impacts of agricultural practices. The center also shall research and assist in developing emerging alternative practices that are consistent with a sustainable agriculture. The center shall develop in association with the Iowa cooperative extension service in agriculture and home economics an educational framework to inform the agricultural community and the general public of its findings.

3. An advisory board is established consisting of the following members:

a. Three persons from Iowa State University of science and technology, appointed by its president.

b. Two persons from the State University of Iowa, appointed by its president.

c. Two persons from the University of Northern Iowa, appointed by its president.

d. Two representatives of private colleges and universities within the state, to be nominated by the Iowa association of independent colleges and universities, and appointed by the Iowa coordinating council for post-high school education.

e. One representative of the department of agriculture and land stewardship, appointed by the secretary of agriculture.

f. One representative of the department of natural resources, appointed by the director.

g. One man and one woman, actively engaged in agricultural production, appointed by the state soil conservation committee.

The terms of the members shall begin and end as provided in section 69.19 and any vacancy shall be filled by the original appointing authority. The terms shall be for four years and shall be staggered as determined by the president of Iowa State University of science and technology.

4. The Iowa agricultural and home economics experiment station shall employ a director for the center, who shall be appointed by the president of Iowa State University of science and technology. The director of the center shall employ the necessary research and support staff. The director and staff shall be employees of Iowa State University of science and technology. No more than five hundred thousand dollars of the funds received from the agriculture management account annually shall be expended by the center for the salaries and benefits of the employees of the center, including the salary and benefits of the director. The remainder of the funds received from the agriculture management account shall be used to sponsor research grants and projects on a competitive basis from Iowa colleges and universities and private nonprofit agencies and foundations. The center may also solicit additional grants and funding from public and private nonprofit agencies and foundations.

The director shall prepare an annual report.

5. The board shall provide the president of Iowa State University of science and technology with a list of three candidates from which the director shall be selected. The board shall provide an additional list of three candidates if requested by the president. The board shall advise the director in the development of a budget, on the policies and procedures of the center, in the funding of research grant proposals, and regarding program planning and review.

Sec. 231. NEW SECTION. 317.26 ALTERNATIVE REMEDIATION PRACTICES.

The director of the department of natural resources, in cooperation with the secretary of agriculture and county conservation boards or the board of supervisors, shall develop and implement projects which utilize alternative practices in the remediation of noxious weeds and other vegetation within highway rights-of-way.

Sec. 232. Section 467E.1, subsection 2, Code 1987, is amended to read as follows:

2. An agricultural energy management advisory council is established which shall consist of the secretary of agriculture and the chief administrator of each of the following organizations or the administrator's designee:

- a. The energy and geological resources division of the department of natural resources.
- b. The environmental protection division of the department of natural resources.
- c. Iowa state university of science and technology college of agriculture.
- d. Iowa state university of science and technology college of engineering.
- e. Iowa state water resource research institute.
- f. State university of Iowa department of preventative medicine and environmental health.
- g. Division of soil conservation of the department of agriculture and land stewardship.
- h. Iowa cooperative extension service in agriculture and home economics.
- i. The university of northern Iowa.
- j. The state hygienic laboratory.

The secretary of agriculture shall coordinate the appointment process for compliance with section 69.16A.

The secretary of agriculture shall be the chairperson of the council. The presiding officers of the senate and house shall each appoint two nonvoting members, not more than one of any one political party, to serve on the advisory council for a term of two years. The council may invite the administrators of the United States geological survey and the federal environmental protection agency to each appoint a person to meet with the council in an advisory capacity. The council shall meet quarterly or upon the call of the chairperson. The council shall review possible uses of the funds fund and the effectiveness of current and past expenditures

of the fund. The council shall make recommendations to the department of agriculture and land stewardship on the uses of the fund.

Sec. 233. **PESTICIDE DEALER EXEMPTION.** The secretary may adopt rules to provide for license and certification fee adjustments that may be necessary to provide an equitable transition from fees required prior to July 1, 1988.

Sec. 234. **APPROPRIATION.** For the fiscal year beginning July 1, 1987, and ending June 30, 1988, the increased fee revenues resulting to the fertilizer fund and to the pesticide fund from the increases in fees and expansion of coverage of fee requirements provided in this Act are appropriated to the department of agriculture and land stewardship for the administration and implementation of chapters 200 and 206, as amended by this Act.

**PART THREE — WELLS, SINKHOLES, WATERSHEDS,
AND WETLANDS**

Sec. 301. **NEW SECTION. 108.11 AGRICULTURAL DRAINAGE WELLS — WETLANDS — CONSERVATION EASEMENTS.**

The department shall develop and implement a program for the acquisition of wetlands and conservation easements on and around wetlands that result from the closure or change in use of agricultural drainage wells upon implementation of the programs specified in section 159.29 to eliminate groundwater contamination caused by the use of agricultural drainage wells. The program shall be coordinated with the department of agriculture and land stewardship. The department may use moneys appropriated for this purpose from the agriculture management account of the groundwater protection fund in addition to other moneys available for wetland acquisition, protection, development, and management.

Sec. 302. **NEW SECTION. 159.28 SINKHOLES — CONSERVATION EASEMENT PROGRAMS.**

The department shall develop and implement a program for the prevention of groundwater contamination through sinkholes. The program shall provide for education of landowners and encourage responsible chemical and land management practices in areas of the state prone to the formation of sinkholes.

The program may provide financial incentives for land management practices and the acquisition of conservation easements around sinkholes. The program may also provide financial assistance for the cleanup of wastes dumped into sinkholes.

The program shall be coordinated with the groundwater protection programs of the department of natural resources and other local, state, or federal government agencies which could compensate landowners for resource protection measures. The department shall use moneys appropriated for this purpose from the agriculture management account of the groundwater protection fund.

Sec. 303. **NEW SECTION. 159.29 AGRICULTURAL DRAINAGE WELLS.**

1. An owner of an agricultural drainage well shall register the well with the department of natural resources by January 1, 1988.

2. An owner of an agriculture* drainage well and a landholder whose land is drained by the well or wells of another person shall develop, in consultation with the department of agriculture and land stewardship and the department of natural resources, a plan which proposes alternatives to the use of agricultural drainage wells by July 1, 1991.

a. Financial incentive moneys may be allocated from the financial incentive portion of the agriculture management account of the groundwater protection fund to implement alternatives to agricultural drainage wells.

b. An owner of an agricultural drainage well and a landholder whose land is drained by the well or wells of another person shall not be eligible for financial incentive moneys pursuant to paragraph "a" if the owner fails to register the well with the department of natural resources

*According to enrolled Act

by January 1, 1988 or if the owner fails to develop a plan for alternatives in cooperation with the department of agriculture and land stewardship and the department of natural resources.

3. The department shall:

a. On July 1, 1987 initiate a pilot demonstration and research project concerning elimination of groundwater contamination attributed to the use of agricultural chemicals and agricultural drainage wells. The project shall be established in a location in North Central Iowa determined by the department to be the most appropriate. A demonstration project shall also be established in Northeast Iowa to study techniques for the cleanup of sinkholes.

The agricultural drainage well pilot project shall be designed to identify the environmental, economic, and social problems presented by continued use or closure of agricultural drainage wells and to monitor possible contamination caused by agriculture land management practices and agricultural chemical use relative to agricultural drainage wells.

b. Develop alternative management practices based upon the findings from the demonstration projects to reduce the infiltration of synthetic organic compounds into the groundwater through agricultural drainage wells and sinkholes.

c. Examine alternatives and the costs of implementation of alternatives to the use of agricultural drainage wells, and examine the legal, technical, and hydrological constraints for integrating alternative drainage systems into existing drainage districts.

4. Financial incentive moneys expended through the use of the financial incentive portion of the agriculture management account may be provided by the department to landowners in the project areas for employing reduced chemical farming practices and land management techniques.

5. The secretary may appoint interagency committees and groups as needed to coordinate the involvement of agencies participating in department sponsored projects. The interagency committees and groups may accept grants and funds from public and private organizations.

6. The department shall publish a report on the status and findings of the pilot demonstration projects on or before July 1, 1989, and each subsequent year of the projects. The department of agriculture and land stewardship shall develop a priority system for the elimination of chemical contamination from agricultural drainage wells and sinkholes. The priority system shall incorporate available information regarding the significance of contamination, the number of registered wells in the area, and the information derived from the report prepared pursuant to this subsection. The highest priority shall be given to agricultural drainage wells for which the above criteria are best met, and the costs of necessary action are at the minimum level.

7. Beginning July 1, 1990, the department shall initiate an ongoing program to meet the goal of eliminating chemical contamination caused by the use of agricultural drainage wells by January 1, 1995 based upon the findings of the report published pursuant to subsection 6.

8. Notwithstanding the prohibitions of section 455B.267, subsection 4, an owner of an agricultural drainage well may make emergency repairs necessitated by damage to the drainage well to minimize surface runoff into the agricultural drainage well, upon the approval of the county board of supervisors or the board's designee of the county in which the agricultural drainage well is located. The approval shall be based upon the following conditions:

a. The well has been registered in accordance with both state and federal law.

b. The applicant will institute management practices including alternative crops, reduced application of chemicals, or other actions which will reduce the level of chemical contamination of the water which drains into the well.

c. The owner submits a written statement that approved emergency repairs are necessary and do not constitute a basis to avoid the eventual closure of the well if closure is later determined to be required. If a county board of supervisors or the board's designee approves the emergency repair of an agricultural drainage well, the county board of supervisors or the board's designee shall notify the department of the approval within thirty days of the approval.

Sec. 304. Section 455B.187, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A landowner or the landowner's agent shall not drill for or construct a new water well without first obtaining a permit for this activity from the department. The department shall not issue a permit to any person for this activity unless the person first registers with the department all wells, including abandoned wells, on the property. The department may delegate the authority to issue a permit to a county board of supervisors or the board's designee. In the event of such delegation, the department shall retain concurrent authority. The commission shall adopt rules pursuant to chapter 17A to implement this paragraph.

NEW UNNUMBERED PARAGRAPH. Notwithstanding the provisions of this section, a county board of supervisors or the board's designee may grant an exemption from the permit requirements to a landowner or the landowner's agent if an emergency drilling is necessary to meet an immediate need for water. The exemption shall be effective immediately upon approval of the county board of supervisors or the board's designee. The board of supervisors or the board's designee shall notify the director within thirty days of the granting of an exemption.

NEW UNNUMBERED PARAGRAPH. In the case of property owned by a state agency, a person shall not drill for or construct a new water well without first registering with the department the existence of any abandoned wells on the property. The department shall develop a prioritized closure program and time frame for the completion of the program, and shall adopt rules to implement the program.

Sec. 305. **NEW SECTION.** 455B.190 ABANDONED WELLS PROPERLY PLUGGED.

All abandoned wells, as defined in section 455B.171, shall be properly plugged in accordance with the schedule established by the department. The department shall develop a prioritized closure program and a time frame for the completion of the program and shall adopt rules to implement the program. A person who fails to properly plug an abandoned well on property the person owns, in accordance with the program established by the department, is subject to a civil penalty of up to one hundred dollars per day that the well remains unplugged or improperly plugged. The moneys collected shall be deposited in the financial incentive portion of the agriculture management account. The department of agriculture and land stewardship may provide by rule for financial incentive moneys, through expenditure of the moneys allocated to the financial-incentive-program portion of the agriculture management account, to reduce a person's cost in properly plugging wells abandoned prior to July 1, 1987.

Sec. 306. Section 465.22, Code 1987, is amended to read as follows:

465.22 DRAINAGE IN COURSE OF NATURAL DRAINAGE — RECONSTRUCTION — DAMAGES.

Owners of land may drain the ~~same~~ land in the general course of natural drainage by constructing or reconstructing open or covered drains, discharging the ~~same~~ drains in any natural watercourse or depression ~~whereby so~~ the water will be carried into some other natural watercourse, and ~~when such~~ if the drainage is wholly upon the owner's land the owner shall is not be liable in damages therefor, nor shall any such for the drainage unless it increases the quantity of water or changes the manner of discharge on the land of another. An owner in constructing a replacement drain, wholly on the owner's own land, and in the exercise of due care ~~be, is not liable in damages to another in ease if~~ a previously constructed drain on the owner's own land is rendered inoperative or less efficient by ~~such~~ the new drain, unless in violation of the terms of a written contract. ~~Nothing in this~~ This section shall in any manner be construed to does not affect the rights or liabilities of proprietors in respect to running streams.

Sec. 307. NEW SECTION. 558.69 EXISTENCE AND LOCATION OF WELLS, DISPOSAL SITES, UNDERGROUND STORAGE TANKS, AND HAZARDOUS WASTE.

With each declaration of value submitted to the county recorder under chapter 428A, there shall also be submitted a statement that no known wells are situated on the property, or if known wells are situated on the property, the statement must state the approximate location of each known well and its status with respect to section 159.29 or 455B.190. The statement shall also state that no disposal site for solid waste, as defined in section 455B.301, which has been deemed to be potentially hazardous by the department of natural resources, exists on the property, or if such a disposal site does exist, the location of the site on the property. The statement shall additionally state that no underground storage tank, as defined in section 455B.471, subsection 6, exists on the property, or if an underground storage tank does exist, the type and size of the tank, and the substance in the tank. The statement shall also state that no hazardous waste as defined in section 455B.411, subsection 4, or listed by the department pursuant to section 455B.412, subsection 2, or section 455B.464, exists on the property, or if hazardous waste does exist, that the waste is being managed in accordance with rules adopted by the department of natural resources. The statement shall be signed by the grantors or the transferors of the property. The county recorder shall refuse to record any deed, instrument, or writing for which a declaration of value is required under chapter 428A unless the statement required by this section has been submitted to the county recorder.

If a declaration of value is not required, the above information shall be submitted on a separate form. The director of the department of natural resources shall prescribe the form of the statement and the separate form to be supplied by each county recorder in the state. The county recorder shall transmit the statements to the department of natural resources at times directed by the director of the department.

PART FOUR — SOLID WASTE MANAGEMENT AND LANDFILLS

Sec. 401. Section 18.3, Code 1987, is amended by adding the following new subsection: NEW SUBSECTION. 9. Administering the provisions of section 18.18.

Sec. 402. Section 28F.1, unnumbered paragraph 1, Code 1987, is amended to read as follows:

This chapter provides a means for the joint financing by public agencies of works or facilities useful and necessary for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, and industrial waste, facilities used for the conversion of solid waste to energy, and also electric power facilities constructed within the state of Iowa except that hydroelectric power facilities may also be located in the waters and on the dams of or on land adjacent to either side of the Mississippi or Missouri river bordering the state of Iowa, water supply systems, swimming pools or golf courses. This chapter applies to the acquisition, construction, reconstruction, ownership, operation, repair, extension, or improvement of such works or facilities, by a separate administrative or legal entity created pursuant to chapter 28E. When the legal entity created under this chapter is comprised solely of cities, counties, and sanitary districts established under chapter 358, or any combination thereof or any combination of the foregoing with other public agencies, the entity shall be both a corporation and a political subdivision with the name under which it was organized. The legal entity may sue and be sued, contract, acquire and hold real and personal property necessary for corporate purposes, adopt a corporate seal and alter the seal at pleasure, and execute all the powers conferred in this chapter.

Sec. 403. NEW SECTION. 268.4 SMALL BUSINESS ASSISTANCE CENTER FOR THE SAFE AND ECONOMIC MANAGEMENT OF SOLID WASTE AND HAZARDOUS SUBSTANCES.

1. The small business assistance center for the safe and economic management of solid waste and hazardous substances is established at the University of Northern Iowa. The University of Northern Iowa, in cooperation with the department of natural resources, shall develop and implement a program which provides the following:

- a. Information regarding the safe use and economic management of solid waste and hazardous substances to small businesses which generate the substances.
 - b. Dissemination of information to public and private agencies regarding state and federal solid waste and hazardous substances regulations, and assistance in achieving compliance with the regulations.
 - c. Advice and consultation in the proper storage, handling, treatment, reuse, recycling, and disposal methods of solid waste and hazardous substances.
 - d. Identification of the advantages of proper substance management relative to liability and operational costs of a particular small business.
 - e. Assistance in the providing of capital formation in order to comply with state and federal regulations.
2. a. An advisory committee to the center is established, consisting of a representative of each of the following organizations:
 - (1) The Iowa department of economic development.
 - (2) The small business development commission.
 - (3) The University of Northern Iowa.
 - (4) The State University of Iowa.
 - (5) Iowa State University of science and technology.
 - (6) The department of natural resources.
 - b. The active participation of representatives of small businesses in the state shall also be sought and encouraged.
3. Information obtained or compiled by the center shall be disseminated directly to the Iowa department of economic development, the small business development centers, and other public and private agencies with interest in the safe and economic management of solid waste and hazardous substances.
 4. The center may solicit, accept, and administer moneys appropriated to the center by a public or private agency.

Sec. 404. Section 455B.301, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 7. "Closure" means actions that will prevent, mitigate, or minimize the threat to public health and the environment posed by a closed sanitary landfill, including, but not limited to, application of final cover, grading and seeding of final cover, installation of an adequate monitoring system, and construction of ground and surface water diversion structures, if necessary.

NEW SUBSECTION. 8. "Closure plan" means the plan which specifies the methods and schedule by which an operator will complete or cease disposal operations of a sanitary disposal project, prepare the area for long-term care, and make the area suitable for other uses.

NEW SUBSECTION. 9. "Lifetime of the project" means the projected period of years that a landfill will receive waste, from the time of opening until closure, based on the volume of waste to be received projected at the time of submittal of the initial project plan and the calculated refuse capacity of the landfill based upon the design of the project.

NEW SUBSECTION. 10. "Financial assurance instrument" means an instrument submitted by an applicant to ensure the operator's financial capability to provide reasonable and necessary response during the lifetime of the project and for the thirty years following closure, and to provide for the closure of the facility and postclosure care required by rules adopted by the commission in the event that the operator fails to correctly perform closure and postclosure care requirements. The form may include the establishment of a secured trust fund, use of a cash or surety bond, or the obtaining of an irrevocable letter of credit.

NEW SUBSECTION. 11. "Postclosure" and "postclosure care" mean the time and actions taken for the care, maintenance, and monitoring of a sanitary disposal project after closure that will prevent, mitigate, or minimize the threat to public health, safety, and welfare and the threat to the environment posed by the closed facility.

NEW SUBSECTION. 12. "Postclosure plan" means the plan which specifies the methods and schedule by which the operator will perform the necessary monitoring and care for the area after closure of a sanitary disposal project.

NEW SUBSECTION. 13. "Manufacturer" means a person who by labor, art, or skill transforms raw material into a finished product or article of trade.

NEW SUBSECTION. 14. "Leachate" means fluid that has percolated through solid waste and which contains contaminants consisting of dissolved or suspended materials, chemicals, or microbial waste products from the solid waste.

NEW SUBSECTION. 15. "Actual cost" means the operational, remedial and emergency action, closure, postclosure, and monitoring costs of a sanitary disposal project for the lifetime of the project.

Sec. 405. NEW SECTION. 455B.301A DECLARATION OF POLICY.

1. The protection of the health, safety, and welfare of Iowans and the protection of the environment require the safe and sanitary disposal of solid wastes. An effective and efficient solid waste disposal program, protects the environment and the public, and provides the most practical and beneficial use of the material and energy values of solid waste. While recognizing the continuing necessity for the existence of landfills, alternative methods of managing solid waste and a reduction in the reliance upon land disposal of solid waste are encouraged. In the promotion of these goals, the following waste management hierarchy in descending order of preference, is established as the solid waste management policy of the state:

- a. Volume reduction at the source.
- b. Recycling and reuse.
- c. Combustion with energy recovery and refuse-derived fuel.
- d. Combustion for volume reduction.
- e. Disposal in sanitary landfills.

2. In the implementation of the solid waste management policy, the state shall:

- a. Establish and maintain a cooperative state and local program of project planning, and technical and financial assistance to encourage comprehensive solid waste management.
- b. Utilize the capabilities of private enterprise as well as the services of public agencies to accomplish the desired objectives of an effective solid waste management program.

Sec. 406. Section 455B.304, unnumbered paragraph 3, Code 1987, is amended to read as follows:

The commission shall adopt rules prohibiting the disposal of uncontained liquid waste in a sanitary landfill. The rules shall prohibit land burial or disposal by land application of wet sewer sludge at a sanitary landfill.

Sec. 407. Section 455B.304, unnumbered paragraph 6, Code 1987, is amended to read as follows:

The commission shall, by rule, require continued monitoring of groundwater pursuant to this section for a period of ~~twenty~~ thirty years after the sanitary disposal project is closed. The commission may prescribe a lesser period of monitoring duration and frequency in consideration of the potential or lack thereof for groundwater contamination from the sanitary disposal project. The commission may extend the ~~twenty-year~~ thirty-year monitoring period on a site-specific basis by adopting rules specifically addressing additional monitoring requirements for each sanitary disposal project for which the monitoring period is to be extended.

Sec. 408. Section 455B.304, Code 1987, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The commission shall adopt rules which establish closure, postclosure, leachate control and treatment, and financial assurance standards and requirements and which establish minimum levels of financial responsibility for sanitary disposal projects.

NEW UNNUMBERED PARAGRAPH. The commission shall adopt rules which establish the minimum distance between tiling lines and a sanitary landfill in order to assure no adverse effect on the groundwater.

NEW UNNUMBERED PARAGRAPH. The commission shall adopt rules for the distribution of grants to cities, counties, central planning agencies, and public or private agencies working in cooperation with cities or counties, for the purpose of solid waste management. The rules shall base the awarding of grants on a project's reflection of the solid waste management policy and hierarchy established in section 455B.301A, the proposed amount of local matching funds, and community need.

NEW UNNUMBERED PARAGRAPH. By July 1, 1990, a sanitary landfill disposal project operating with a permit shall have a trained, tested, and certified operator. A certification program shall be devised or approved by rule of the department.

Sec. 409. Section 455B.305, subsection 5, Code 1987, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. After July 1, 1997, however, no new landfill permits shall be issued unless the applicant certifies that the landfill is needed as a part of an alternative disposal method, or unless the applicant provides documentation which satisfies the director that alternatives have been studied and are not either technically or economically feasible. The decision of the director is subject to review by the commission at its next meeting.

Sec. 410. Section 455B.305, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Beginning July 1, 1992, the director shall not issue, renew, or reissue a permit for a sanitary landfill unless the sanitary landfill is equipped with a leachate control system. The director may exempt a permit applicant from this requirement if the director determines that certain conditions regarding, but not limited to, existing physical conditions, topography, soil, geology, and climate, are such that a leachate control system is unnecessary.

Sec. 411. Section 455B.306, subsection 1, Code 1987, is amended to read as follows:

1. A city, county, and a private agency operating or planning to operate a sanitary disposal project shall file with the director a comprehensive plan detailing the method by which the city, county, or private agency will comply with this part 1. The director shall review each comprehensive plan submitted and may reject, suggest modification, or approve the proposed plan. The director shall aid in the development of comprehensive plans for compliance with this part. The director shall make available to a city, county, and private agency appropriate forms for the submission of comprehensive plans and may hold hearings for the purpose of implementing this part. The director and governmental agencies with primary responsibility for the development and conservation of energy resources shall provide research and assistance, when cities and counties operating or planning to operate sanitary disposal projects request aid in planning and implementing resource recovery systems. A comprehensive plan filed by a private agency operating or planning to operate a sanitary disposal project required pursuant to section 455B.302 shall be developed in cooperation and consultation with the city or county responsible to provide for the establishment and operation of a sanitary disposal project.

Sec. 412. Section 455B.306, subsection 2, Code 1987, is amended to read as follows:

2. The plan required by subsection 1 shall be filed with the department at the time of initial application for the construction and operation of a sanitary landfill disposal project and shall be updated and refiled with the department at the time of each subsequent application for renewal or reissuance of a previously issued permit.

Sec. 413. Section 455B.306, subsection 3, Code 1987, is amended to read as follows:

3. A comprehensive plan filed pursuant to this section in conjunction with an application for issuance, renewal, or reissuance of a permit for a sanitary disposal project shall incorporate and reflect the waste management hierarchy of the state solid waste management policy and

shall at a minimum address the following general topics to the extent appropriate to the technology employed by the applicant at the sanitary disposal project:

- a. The extent to which solid waste is or can be recycled.
- b. The economic and technical feasibility of using other existing sanitary disposal project facilities in lieu of initiating or continuing the sanitary landfill for which the permit is being sought.
- c. The expected environmental impact of alternative solid waste disposal methods, including the use of sanitary landfills.
- d. A specific plan and schedule for implementing technically and economically feasible solid waste disposal methods that will result in minimal environmental impact.

4. In addition to the above requirements, the following specific areas must be addressed in detail in the comprehensive plan:

a. A closure and postclosure plan detailing the schedule for and the methods by which the operator will meet the conditions for proper closure and postclosure adopted by rule by the commission. The plan shall include, but is not limited to, the proposed frequency and types of actions to be implemented prior to and following closure of an operation, the proposed post-closure actions to be taken to return the area to a condition suitable for other uses, and an estimate of the costs of closure and postclosure and the proposed method of meeting these costs. The postclosure plan shall reflect the thirty-year time period requirement for postclosure responsibility.

b. A plan for the control and treatment of leachate, including financial considerations proposed in meeting the costs of control and treatment in order to meet the requirements of section 455B.305, subsection 6.

c. A financial plan detailing the actual cost of the sanitary disposal project and including the funding sources of the project. In addition to the submittal of the financial plan filed pursuant to this subsection, the operator of an existing sanitary landfill shall submit an annual financial statement to the department.

d. An emergency response and remedial action plan including established provisions to minimize the possibility of fire, explosion, or any release to air, land, or water of pollutants that could threaten human health and the environment, and the identification of possible occurrences that may endanger human health and environment.

Sec. 414. Section 455B.306, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In addition to the comprehensive plan filed pursuant to subsection 1, a person operating or proposing to operate a sanitary disposal project shall provide a financial assurance instrument to the department prior to the initial approval of a permit or prior to the renewal of a permit for an existing or expanding facility beginning July 1, 1988.

a. The financial assurance instrument shall meet all requirements adopted by rule by the commission, and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. Following the cessation of operation or closure of a sanitary disposal project, neither the guarantor nor the operator shall cancel, revoke, or disburse the financial assurance instrument or allow the instrument to terminate until the operator is released from closure, postclosure, and monitoring responsibilities.

b. The operator shall maintain closure, and postclosure accounts. The commission shall adopt by rule the amounts to be contributed to the accounts based upon the amount of solid waste received by the facility. The accounts established shall be specific to the facility.

(1) Money in the accounts shall not be assigned for the benefit of creditors with the exception of the state.

(2) Money in an account shall not be used to pay any final judgment against a licensee arising out of the ownership or operation of the site during its active life or after closure.

(3) Conditions under which the department may gain access to the accounts and circumstances under which the accounts may be released to the operator after closure and postclosure responsibilities have been met, shall be established by the commission.

c. The commission shall adopt by rule the minimum amounts of financial responsibility for sanitary disposal projects.

d. Financial assurance instruments may include instruments such as cash or surety bond, a letter of credit, a secured trust fund, or a corporate guarantee.

e. The annual financial statement submitted to the department pursuant to section 455B.306, subsection 3, paragraph "d", shall include the current amounts established in each of the accounts and the projected amounts to be deposited in the accounts in the following year.

Sec. 415. Section 455B.307, Code 1987, is amended to read as follows:

455B.307 DUMPING — WHERE PROHIBITED.

1. ~~It shall be unlawful for any A private agency or public agency to shall not dump or deposit or permit the dumping or depositing of any solid waste resulting from its own residential, farming, manufacturing, mining, or commercial activities at any place other than a sanitary disposal project approved by the director unless the agency has been granted a permit by the department which allows the dumping or depositing of solid waste on land owned or leased by the agency. The department shall adopt rules regarding the permitting of this activity which shall provide that the public interest is best served, but which may be based upon criteria less stringent than those regulating a public sanitary disposal project provided that the rules adopted meet the groundwater nondegradation goal specified in section 455E.4. The comprehensive plans for these facilities may be varied in consideration of the types of sanitary disposal practices, hydrologic and geologic conditions, construction and operations characteristics, and volumes and types of waste handled at the disposal site. This section shall not prohibit a private agency or public agency from dumping or depositing solid waste resulting from its own residential, farming, manufacturing, mining or commercial activities on land owned or leased by it if the action does not violate any statute of this state or rules promulgated by the commission or local boards of health, or local ordinances. The director may issue temporary permits for dumping or disposal of solid waste at disposal sites for which an application for a permit to operate a sanitary disposal project has been made and which have not met all of the requirements of part 1 of this division and the rules adopted by the commission if a compliance schedule has been submitted by the applicant specifying how and when the applicant will meet the requirements for an operational sanitary disposal project and the director determines the public interest will be best served by granting such temporary permit.~~

2 ~~7.~~ The director may issue any order necessary to secure compliance with or prevent a violation of the provisions of this part 1 of division IV or the rules ~~promulgated~~ adopted pursuant ~~thereto to the part.~~ The attorney general shall, on request of the department, institute any legal proceedings necessary in obtaining compliance with an order of the commission or the director or prosecuting any person for a violation of the provisions of ~~said the part or rules issued pursuant thereto to the part.~~

3 ~~8.~~ Any person who violates any provision of part 1 of this division or any rule or any order ~~promulgated~~ adopted or the conditions of any permit or order issued pursuant to part 1 of this division shall be subject to a civil penalty. The amount of the civil penalty shall be based upon the toxicity and severity of the solid waste as determined by rule, but not to exceed five hundred dollars for each day of such violation.

Sec. 416. Section 455B.310, subsection 2, Code 1987, is amended to read as follows:

2. ~~The tonnage fee is twenty-five cents one dollar and fifty cents per ton of solid waste for the year beginning July 1, 1988 and shall increase annually in the amount of fifty cents per ton through July 1, 1992. The city or county providing for the establishment and operation of the sanitary landfill may charge an additional tonnage fee for the disposal of solid waste at the sanitary landfill, to be used exclusively for the development and implementation of alternatives to sanitary landfills.~~

Sec. 417. Section 455B.310, subsections 4 and 5, Code 1987, are amended to read as follows:

4. All tonnage fees received by the department under this section shall be paid to a groundwater fund created under section ~~455B.309~~ deposited in the solid waste account of the groundwater protection fund created under section 455E.11.

5. Fees imposed by this section beginning July 1, 1988 shall be paid to the department on an annual a quarterly basis. Fees are due on April 15 for the previous calendar year The initial payment of fees collected beginning July 1, 1988 shall be paid to the department on January 1, 1989 and on a quarterly basis thereafter. The payment shall be accompanied by a return in the form prescribed by the department.

Sec. 418. Section 455B.310, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 7. The department shall grant exemptions from the fee requirements of subsection 2 for receipt of solid waste meeting all of the following criteria:

a. Receipt of the solid waste is pursuant to a written contract between the owner or operator of the sanitary landfill and another person.

b. The contract was lawfully executed prior to January 1, 1987.

c. The contract expressly prohibits an increase in the compensation or fee payable to the owner or operator of the landfill and does not allow voluntary cancellation or renegotiation of the compensation or fee during the term of the contract.

d. The contract has not been amended at any time after January 1, 1987.

e. The owner or operator of the sanitary landfill applying for exemption demonstrates to the satisfaction of the department that good faith efforts were made to renegotiate the contract notwithstanding its terms, and has been unable to agree on an amendment allowing the fee provided in subsection 2 to be added to the compensation or fee provisions of the contract.

f. Applications for exemption must be submitted on forms provided by the department with proof of satisfaction of all criteria.

g. Notwithstanding the time specified within the contract, an exemption from payment of the fee increase requirements for a multiyear contract shall terminate by January 1, 1989.

NEW SUBSECTION. 8. In the case of a sanitary disposal project other than a sanitary landfill, no tonnage fee shall apply for five years beginning July 1, 1987 or for five years from the commencement of operation, whichever is later. By July 1, 1992, the department shall provide the general assembly with a recommendation regarding appropriate fees for alternative sanitary disposal projects.

Sec. 419. Section 455B.311, subsection 2, Code 1987, is amended to read as follows:

2. Grants shall only be awarded to a city or a county; however, a grant may be made to a central planning agency representing more than one city or county or combination of cities or counties for the purpose of planning and implementing regional solid waste management facilities or may be made to private or public agencies working in cooperation with a city or county. The department shall award grants, in accordance with the rules adopted by the commission, based upon a proposal's reflection of the solid waste management policy and hierarchy established in section 455B.301A. Grants shall be awarded only for an amount determined by the department to be reasonable and necessary to conduct the work as set forth in the grant application. Grants may be awarded at a maximum cost-share level of ninety percent with a preference given for regional or shared projects and a preference given to projects involving environmentally fragile areas which are particularly subject to groundwater contamination. Grants shall be awarded in a manner which will distribute the grants geographically throughout the state.

Sec. 420. NEW SECTION. 455B.312 WASTE ABATEMENT PROGRAM.

1. If the department receives a complaint that certain products or packaging which when disposed of are incompatible with an alternative method of managing solid waste and with the solid waste management policy, the director shall investigate the complaint. If the director determines that the complaint is well-founded, the department shall inform the manufacturer of the product or packaging and attempt to resolve the matter by informal negotiations.

2. If informal procedures fail to result in resolution of the matter, the director shall hold a hearing between the affected parties. Following the hearing, if it is determined that removal of the product or packaging is critical to the utilization of the alternative method of disposing of solid waste, the director shall issue an order setting out the requirements for an abatement plan to be prepared by the manufacturer within the time frame established in the order.

If an acceptable plan is not prepared, the plan is not implemented, or the problem otherwise continues unabated, the attorney general shall take actions authorized by law to secure compliance.

Sec. 421. NEW SECTION. 18.18 STATE PURCHASES – RECYCLED PRODUCTS.

1. When purchasing paper products, the department of general services shall, wherever the price is reasonably competitive and the quality intended, purchase the recycled product.

2. The department of general services, in conjunction with the department of natural resources, shall review the procurement specifications currently used by the state to eliminate, wherever possible, discrimination against the procurement of products manufactured with recovered materials.

3. The department of natural resources shall assist the department of general services in locating suppliers of recycled products and collecting data on recycled content purchases.

4. Information on recycled content shall be requested on all bids for paper products issued by the state and on other bids for products which could have recycled content such as oil, plastic products, compost materials, aggregate, solvents, and rubber products.

5. The department of general services, in conjunction with the department of natural resources, shall adopt rules and regulations to carry out the provisions of this section.

6. All state agencies shall fully cooperate with the departments of general services and natural resources in all phases of implementing this section.

Sec. 422. GROUNDWATER FUND EXISTING FEES.

All tonnage fees received by the department of natural resources pursuant to section 455B.310 and deposited in the groundwater fund and existing in the groundwater fund prior to December 31, 1987, shall be used for the following purposes:

1. Six cents of the twenty-five cents per ton deposited in the fund is appropriated to the waste management authority of the department of natural resources.

2. Fifty thousand dollars of the moneys in the fund is appropriated to the University of Northern Iowa for the fiscal year beginning July 1, 1987, and ending June 30, 1988, for the establishment of the small business assistance center for the safe and economic management of solid waste and hazardous substances at the University of Northern Iowa.

3. The remainder of the moneys in the account are appropriated to the department of natural resources for the development of guidelines for groundwater monitoring at sanitary disposal projects as defined in section 455B.301, subsection 3.

PART FIVE – HOUSEHOLD HAZARDOUS WASTE

Sec. 501. NEW SECTION. 455F.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Department" means the department of natural resources.

2. "Commission" means the state environmental protection commission.

3. "Manufacturer" means a person who manufactures or produces a household hazardous material for resale in this state.

4. "Wholesaler" or "distributor" means a person other than a manufacturer or manufacturer's agent who engages in the business of selling or distributing a household hazardous material within the state, for the purpose of resale.

5. "Retailer" means a person offering for sale or selling a household hazardous material to the ultimate consumer, within the state.

6. "Display area label" means the signage used by a retailer to mark a household hazardous material display area as prescribed by the department of natural resources.

7. "Residential" means a permanent place of abode, which is a person's home as opposed to a person's place of business.

8. "Household hazardous material" means a product used for residential purposes and designated by rule of the department of natural resources and may include any hazardous substance as defined in section 455B.411, subsection 3; and any hazardous waste as defined in section 455B.411, subsection 4; and shall include but is not limited to the following materials: motor oils, motor oil filters, gasoline and diesel additives, degreasers, waxes, polishes, solvents, paints, with the exception of latex-based paints, lacquers, thinners, caustic household cleaners, spot and stain remover with petroleum base, and petroleum-based fertilizers. However, "household hazardous material" does not include laundry detergents or soaps, dishwashing compounds, chlorine bleach, personal care products, personal care soaps, cosmetics, and medications.

Sec. 502. NEW SECTION. 455F.2 POLICY STATEMENT.

It is the policy of this state to educate Iowans regarding the hazardous nature of certain household products, proper use of the products, and the proper methods of disposal of residual product and containers in order to protect the public health, safety, and the environment.

Sec. 503. NEW SECTION. 455F.3 LABELS REQUIRED.

1. A retailer shall affix a display area label, as prescribed by rule of the commission, in a prominent location upon or near the display area of a household hazardous material. If the display area is a shelf, and the price of the product is affixed to the shelf, the label shall be affixed adjacent to the price information.

2. The department shall develop, in cooperation with distributors, wholesalers, and retailer associations, and shall distribute to retailers a household hazardous products list to be utilized in the labeling of a display area containing products which are household hazardous materials.

3. A person found in violation of this section is guilty of a simple misdemeanor.

Sec. 504. NEW SECTION. 455F.4 CONSUMER INFORMATION BOOKLETS.

A retailer shall maintain and prominently display a booklet, developed by the department, in cooperation with manufacturers, distributors, wholesalers, and retailer associations and provided to retailers at departmental expense, which provides information regarding the proper use of household hazardous materials and specific instructions for the proper disposal of certain substance categories. The department shall also develop and provide to a retailer, at departmental expense, bulletins regarding household hazardous materials which provide information designated by rule of the commission. The retailer shall distribute the bulletins without charge to customers.

A manufacturer or distributor of household hazardous materials who authorizes independent contractor retailers to sell the products of the manufacturer or distributor on a person-to-person basis primarily in the customer's home, shall print informational lists of its products which are designated by the department as household hazardous materials. These lists of products and the consumer information booklets prepared in accordance with this section shall be provided by the manufacturer or distributor in sufficient quantities to each contractor retailer for dissemination to customers. During the course of a sale of a household hazardous material by a contractor retailer, the customer shall in the first instance be provided with a copy of both the list and the consumer information booklet. In subsequent sales to the same customer, the list and booklet shall be noted as being available if desired.

Sec. 505. NEW SECTION. 455F.5 DUTIES OF THE COMMISSION.

The commission shall:

1. Adopt rules which establish a uniform label to be supplied and used by retailers.
2. Adopt rules which designate the type and amount of information to be included in the consumer information booklets and bulletins.

Sec. 506. NEW SECTION. 455F.6 DUTIES OF THE DEPARTMENT.

The department shall:

1. Designate products which are household hazardous materials and, based upon the designations and in consultation with manufacturers, distributors, wholesalers, and retailer associations, develop a household hazardous product list for the use of retailers in identifying the products.

2. Enforce the provisions of this chapter and implement the penalties established.

3. Identify, after consulting with departmental staff and the listing of other states, no more than fifty commonly used household products which, due to level of toxicity, extent of use, nondegradability, or other relevant characteristic, constitute the greatest danger of contamination of the groundwater when placed in a landfill. The department may identify additional products by rule.

4. Submit recommendations to the general assembly regarding the products specified in subsection 1 which include but are not limited to the following:

a. Education of consumers regarding the danger incurred in disposal of the products, the proper disposal of the products, and the use of alternative products which do not present as great a disposal danger as the products specified.

b. Dissemination of information regarding the products specified.

c. Special labeling or stamping of the products.

d. A means for proper disposal of the products.

e. Proposed legislative action regarding implementation of recommendations concerning the products.

Sec. 507. NEW SECTION. 455F.7 HOUSEHOLD HAZARDOUS MATERIALS PERMIT.

1. A retailer offering for sale or selling a household hazardous material shall have a valid permit for each place of business owned or operated by the retailer for this activity. All permits provided for in this division shall expire on June 30 of each year. Every retailer shall submit an annual application by July 1 of each year and a fee of ten dollars based upon gross retail sales of up to fifty thousand dollars, twenty-five dollars based upon gross retail sales of fifty thousand dollars to three million dollars, and one hundred dollars based upon gross retail sales of three million dollars or more to the department of revenue and finance for a permit upon a form prescribed by the director of revenue and finance. Permits are nonrefundable, are based upon an annual operating period, and are not prorated. A person in violation of this section shall be subject to permit revocation upon notice and hearing. The department shall remit the fees collected to the household hazardous waste account of the groundwater protection fund. A person distributing general use pesticides labeled for agricultural or lawn and garden use with gross annual pesticide sales of less than ten thousand dollars is subject to the requirements and fee payment prescribed by this section.

2. A manufacturer or distributor of household hazardous materials, which authorizes retailers as independent contractors to sell the products of the manufacturer or distributor on a person-to-person basis primarily in the customer's home, may obtain a single household hazardous materials permit on behalf of its authorized retailers in the state, in lieu of individual permits for each retailer, and pay a fee based upon the manufacturer's or distributor's gross retail sales in the state according to the fee schedule and requirements of subsection 1. However, a manufacturer or distributor which has gross retail sales of three million dollars or more in the state shall pay an additional permit fee of one hundred dollars for each subsequent increment of three million dollars of gross retail sales in the state, up to a maximum permit fee of three thousand dollars.

Sec. 508. NEW SECTION. 455F.8 HOUSEHOLD HAZARDOUS WASTE CLEANUP PROGRAM CREATED.

The department shall conduct programs to collect and dispose of small amounts of hazardous wastes which are being stored in residences or on farms. The program shall be known

as "Toxic Cleanup Days". The department shall promote and conduct the program and shall by contract with a qualified and bonded waste handling company, collect and properly dispose of wastes believed by the person disposing of the waste to be hazardous. The department shall establish maximum amounts of hazardous wastes to be accepted from a person during the "Toxic Cleanup Days" program. Amounts accepted from a person above the maximum shall be limited by the department and may be subject to a fee set by the department, but the department shall not assess a fee for amounts accepted below the maximum amount. The department shall designate the times and dates for the collection of wastes. The department shall have as a goal twelve "Toxic Cleanup Days" during the period beginning July 1, 1987, and ending October 31, 1988. In any event, the department shall offer the number of days that can be properly and reasonably conducted with funds deposited in the household hazardous waste account. In order to achieve the maximum benefit from the program, the department shall offer "Toxic Cleanup Days" on a statewide basis and provide at least one "Toxic Cleanup Day" in each departmental region. "Toxic Cleanup Days" shall be offered in both rural and urban areas to provide a comparison of response levels and to test the viability of multicounty "Toxic Cleanup Days". The department may also offer at least one "Toxic Cleanup Day" at a previously serviced location to test the level of residual demand for the event and the effect of the existing public awareness on the program. The department shall prepare an annual report citing the results and costs of the program for submittal to the general assembly.

Sec. 509. NEW SECTION. 455F.9 EDUCATION PROGRAM.

In addition to the "Toxic Cleanup Days" program the department shall implement a public information and education program regarding the use and disposal of household hazardous materials. The program shall provide appropriate information concerning the reduction in use of the materials, including the purchase of smaller quantities and selection of alternative products. The department shall cooperate with existing educational institutions, distributors, wholesalers, and retailers, and other agencies of government and shall enlist the support of service organizations, whenever possible, in promoting and conducting the programs in order to effectuate the household hazardous materials policy of the state.

Sec. 510. NEW SECTION. 455F.10 PENALTIES.

Any person violating a provision of this chapter or a rule adopted pursuant to this chapter is guilty of a simple misdemeanor.

Sec. 511. COLLECTION OF USED MOTOR OIL — PILOT PROJECT.

The state department of transportation, in cooperation with the department of natural resources and the Iowa State University of science and technology center for industrial research and service, shall institute a pilot project to collect and dispose of used motor oil from residences and farms in one urban county and one rural county by October 1, 1987.

The state department of transportation shall promote community participation; provide collection sites and facilities; prescribe procedures for each collection site, including the amount of used motor oil to be accepted from a household or farm, and measures necessary to assure maintenance of a sanitary collection site environment; arrange for proper used oil disposal; and report to the general assembly by March 1, 1988, regarding the progress on the pilot project. The report shall include the cost of the project, the amount of used motor oil collected, and any other relevant data gathered by the participating agencies. The state department of transportation shall recommend in the report to the general assembly whether the program should be continued, expanded, modified, or discontinued.

The department of natural resources shall assist the state department of transportation in promoting the pilot project and in applying any state or federal environmental regulations to the pilot project. The Iowa State University of science and technology center for industrial research and service shall coordinate research on establishing the waste stream for used motor

oil, investigate alternative disposal methods, and coordinate research with other states' research projects on used motor oil collection and disposal.

This section is repealed July 1, 1989.

Sec. 512. NEW SECTION. 455F.12 RECYCLING AND RECLAMATION PROGRAMS.

Up to eighty thousand dollars of the moneys deposited in the household hazardous waste account shall be allocated to the department of natural resources for city, county, or service organization projects relative to recycling and reclamation events. A city, county, or service organization shall submit a competitive grant to the department of natural resources by April 1 for approval by the department no later than May 15.

PART SIX – STORAGE TANK MANAGEMENT

Sec. 601. Section 507D.3, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. An assistance program for the facilitation of insurance and financial responsibility coverage for owners and operators of underground storage tanks which store petroleum shall not be affected by the prohibitions of subsections 2 and 3.

Sec. 602. PLAN OF OPERATIONS PROGRAM. The division of insurance of the department of commerce, in conjunction with the department of natural resources and private industry, shall, no later than September 15, 1987, create a plan of operations program for the development of state or private funds to satisfy the requirements of the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., regarding the financial responsibility of an owner or operator of an underground storage tank which stores petroleum.

The program shall include, but is not limited to, the following elements:

1. The establishment of a pool of insurers sufficient to manage all anticipated participants required to obtain and maintain evidence of financial responsibility in the amounts of one million dollars for corrective action and one million dollars for the compensation of third parties for property damage and bodily injury.

2. The establishment of the mechanism for election of the pool administrator by the participating industry.

3. The establishment of a plan of operations, through the administrator, including but not limited to the following items:

a. Collection of administrative expenses.

b. A claims process and defense system.

c. An actuarial review.

d. A determination of rate classifications which reflect the tank standards and monitoring devices maintained by an individual owner or operator, which in addition to a daily inventory system include but are not limited to the following:

(1) Secondary containment consisting of double wall construction and provided with a device to monitor the interstitial space between the secondary and primary containment structures.

(2) Secondary containment consisting of single wall construction and a man-made liner, and groundwater monitoring wells.

(3) Single wall construction and groundwater monitoring wells.

(4) Any type of tank construction and sniffer wells and an additional monitoring system.

e. A policyholder service system.

f. The billing, collecting, and investment of premiums.

4. The mechanism by which owners or operators who can demonstrate financial responsibility pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., may establish exempt status from participation in the program.

Sec. 603. COMMITTEE CREATED – DUTIES. The legislative council shall create a legislative committee which shall meet within thirty days following the issuance of the plan of operations program. The committee shall be composed of two senators, one appointed by the majority leader of the senate and one appointed by the minority leader of the senate; two

representatives, one appointed by the speaker of the house of representatives and one appointed by the minority leader of the house of representatives; one representative of petroleum storage tank owners and operators; and one representative of the petroleum industry.

The committee shall, on or before January 1, 1988, prepare proposed legislation for the implementation of the program to be enacted and implemented on or before May 1, 1988. The proposed legislation shall include:

1. The cost of participation of an individual owner or operator based upon the following:
 - a. The base premium rate determined by the actuarial data.
 - b. The amount of subsidization of the premium by the state, based on daily inventory and upon the storage tank standards and inventory monitoring systems maintained by an individual owner or operator. The state subsidization of the premium shall be based upon a sliding fee schedule which may reflect the following criteria:
 - (1) Tanks with secondary containment consisting of double wall construction and provided with a device to monitor the interstitial space between the secondary and primary containment structures.
 - (2) Tanks with secondary containment consisting of single wall construction and a man-made liner, and provided with groundwater monitoring wells.
 - (3) Tanks with single wall construction and groundwater monitoring wells.
 - (4) Tanks with any type of construction and sniffer wells and an additional monitoring system.
2. The funding source for subsidization, which may be, but is not limited to, the following:
 - a. An increase in the annual storage tank fee.
 - b. An annual tank assessment fee.
 - c. A pump inspection fee, paid by fuel dealers.
 - d. Federal environmental protection agency grants.
3. The management of the plan and the funds, whether the plan is profitable or operates at a loss.
4. The mechanism by which owners or operators who can demonstrate financial responsibility pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., may establish exempt status from participation in the program.

Sec. 604. Section 455B.473, Code 1987, is amended by adding the following new subsections:
NEW SUBSECTION. 3A. An owner or operator of a storage tank described in section 455B.471, subsection 6, paragraph "a", which brings the tank into use after July 1, 1987, shall notify the department of the existence of the tank within thirty days. The registration of the tank shall be accompanied by a fee of ten dollars to be deposited in the storage tank management account. A tank which is existing before July 1, 1987, shall be reported to the department by July 1, 1989. Tanks under this section installed on or following July 1, 1987, shall comply with underground storage tank regulations adopted by rule by the department.

NEW SUBSECTION. 8. It shall be unlawful to deposit a regulated substance in an underground storage tank which has not been registered pursuant to subsections 1 through 5.

The department shall furnish the owner or operator of an underground storage tank with a registration tag for each underground storage tank registered with the department. The owner or operator shall affix the tag to the fill pipe of each registered underground storage tank. A person who conveys or deposits a regulated substance shall inspect the underground storage tank to determine the existence or absence of the registration tag. If a registration tag is not affixed to the underground storage tank fill pipe, the person conveying or depositing the regulated substance may deposit the regulated substance in the unregistered tank provided that the deposit is allowed only in the single instance, that the person reports the unregistered tank to the department of natural resources, and that the person provides the owner or operator with an underground storage tank registration form and informs the owner or operator of the underground storage tank registration requirements. The owner or operator is allowed fifteen days following the report to the department of the owner's or operator's unregistered tank to comply with the registration requirements. If an owner or operator fails

to register the reported underground storage tank during the fifteen-day period, the owner or operator shall pay a fee of twenty-five dollars upon registration of the tank.

Sec. 605. Section 455B.473, subsection 4, Code 1987, is amended to read as follows:

4. The notice of the owner or operator to the department under subsections 1 through 3 shall be accompanied by a fee of five ten dollars for each tank included in the notice. ~~A separate fund is created in the state treasury, the receipts of which are appropriated to pay the administrative expenses of the department incurred under this part. All fees collected by the department under this subsection shall be credited to the fund. The unobligated or unencumbered balance in the fund as of June 30 of each year shall be transferred to the hazardous waste remedial fund. All moneys collected shall be deposited in the storage tank management account of the groundwater protection fund created in section 455E.11. All moneys collected pursuant to this section prior to July 1, 1987, which have not been expended, shall be deposited in the storage tank management account.~~

Sec. 606. Section 455B.474, subsection 2, Code 1987, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. If an owner or operator is required to uncover or remove an underground storage tank based upon a determination of the department that the underground storage tank presents a hazard to the public health, safety, or the environment, and if upon inspection of the tank the determination is unfounded, the state may reimburse reasonable costs incurred in the inspection of the tank. Claims for reimbursement shall be filed on forms provided by the commission. The commission shall adopt rules pursuant to chapter 17A relating to determinations of reasonableness in approval or rejection of claims in cases of dispute. Claims shall be paid from the general fund of the state. When any one of the tanks or the related pumps and piping at a multiple tank facility are found to be leaking, the state shall not reimburse costs for uncovering or removing any of the other tanks, piping, or pumps that are not found to be leaking.

Sec. 607. NEW SECTION. 455B.479 STORAGE TANK MANAGEMENT FEE.

An owner or operator of an underground storage tank shall pay an annual storage tank management fee of fifteen dollars per tank of over one thousand one hundred gallons capacity. The fees collected shall be deposited in the storage tank management account of the groundwater protection fund.

Approved June 9, 1987