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SENATE FILE 1211

By GALLAGHER and DODERER

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act to transfer the powers and duties of the Iowa natural  
2 resources council to the department of environmental quality  
3 and the office of state geologist and to abolish the Iowa  
4 natural resources council.

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

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1 Section 1. Section four hundred fifty-five A point one  
2 (455A.1), unnumbered paragraphs one (1), thirteen (13), four-  
3 teen (14), and eighteen (18), Code 1975, are amended to read  
4 as follows:

5 As used in this chapter, "~~council~~ commission" means "~~Iowa~~  
6 ~~Natural-Resources-Council~~ water quality commission of the  
7 department of environmental quality";

8 "Permit" means the written authorization issued by the  
9 ~~water-commissioner-or-council~~ executive director to a permit-  
10 tee which shall be limited as to quantity, time, place, and  
11 rate of diversion, storage or withdrawal in accordance with  
12 the declared policies and principles of beneficial use set  
13 forth in this chapter;

14 "Permittee" means the person who obtains a permit from  
15 the ~~council~~ executive director authorizing such person to  
16 take possession by diversion or otherwise and to use and apply  
17 an allotted quantity of water for a designated beneficial  
18 use, and who makes actual use of the water for such purpose;

19 "Established average minimum flow" means when reasonably  
20 required for the purpose of this chapter, the ~~council~~  
21 commission shall determine and establish the average mini-  
22 mum flow for a given watercourse at a given point thereon.  
23 The "average minimum flow" for a given watercourse as used  
24 in this chapter shall be determined by the following factors:

25 (a) Average of minimum daily flows occurring during the  
26 preceding years chosen by the ~~council~~ commission as more  
27 nearly representative of changing conditions and needs of  
28 a given drainage area at a particular time; (b) minimum daily  
29 flows shown by experience to be the limit at which further  
30 withdrawals would be harmful to the public interest in any  
31 particular drainage area; and (c) those minimum daily flows  
32 shown by established discharge records and experiences to  
33 be definitely harmful to the public interest. Such deter-  
34 mination shall be based upon available flow data, supplemen-  
35 ted, when available data are incomplete, by whatever evidence

1 is available;

2       Sec. 2. Section four hundred fifty-five A point one  
3 (455A.1), Code 1975, is amended by adding the following new  
4 unnumbered paragraphs:

5       NEW UNNUMBERED PARAGRAPH. "Department" means the depart-  
6 ment of environmental quality.

7       NEW UNNUMBERED PARAGRAPH. "Executive committee" means  
8 the executive committee of the department.

9       NEW UNNUMBERED PARAGRAPH. "Executive director" means the  
10 executive director of the department or his designee.

11       Sec. 3. Section four hundred fifty-five A point two  
12 (455A.2), unnumbered paragraph one (1), Code 1975, is amended  
13 to read as follows:

14       It is hereby recognized that the protection of life and  
15 property from floods, the prevention of damage to lands there-  
16 from and the orderly development, wise use, protection and  
17 conservation of the water resources of the state by the con-  
18 sidered and proper use thereof, is of paramount importance  
19 to the welfare and prosperity of the people of the state,  
20 and, to realize these objectives it is hereby declared to  
21 be the policy of the state to correlate and vest the powers  
22 of the state in a single agency, the ~~Iowa-natural-resources~~  
23 ~~department~~ department of environmental quality, with the duty  
24 and authority to establish and enforce an appropriate  
25 comprehensive state-wide program for the control, utilization,  
26 and protection of the surface and ground-water resources of  
27 the state. It is hereby declared that the general welfare  
28 of the people of the state of Iowa requires that the water  
29 resources of the state be put to beneficial use to the fullest  
30 extent of which they are capable, and that the waste or  
31 unreasonable use, or unreasonable methods of use, of water  
32 be prevented, and that the conservation of such water be  
33 exercised with the view to the reasonable and beneficial  
34 use thereof in the interest of the people, and that the public  
35 and private funds for the promotion and expansion of the

1 beneficial use of water resources shall be invested to the  
2 end that the best interests and welfare of the people are  
3 served.

4 Sec. 4. Section four hundred fifty-five A point three  
5 (455A.3), Code 1975, is amended to read as follows:

6 455A.3 CREATION ADMINISTRATIVE AGENCY. ~~There-is-hereby~~  
7 ~~created-and-established-an-Iowa-natural-resources-council.~~  
8 The ~~council~~ department of environmental quality is established  
9 as an agency of the state government to promote the policies  
10 set forth in this chapter and shall represent the state of  
11 Iowa in all matters within the scope of this chapter.

12 Sec. 5. Section four hundred fifty-five A point nine  
13 (455A.9), Code 1975, is amended by striking the section and  
14 inserting in lieu thereof the following:

15 455A.9 PERMIT HEARINGS.

16 The executive director shall serve in a quasi-judicial  
17 capacity in determining questions of fact in the processing  
18 of all applications for appropriate permits. The executive  
19 director shall conduct hearings on any applications for permits  
20 as provided by law and the rules of the commission.

21 Sec. 6. Section four hundred fifty-five A point ten  
22 (455A.10), Code 1975, is amended to read as follows:

23 455A.10 OTHER EMPLOYEES. The executive director, with  
24 the approval of the ~~council~~ executive committee is empowered  
25 to employ, discharge, and fix the salaries of such technical,  
26 clerical, stenographic and such other employees and assistants  
27 as may be required subject to chapter nineteen A (19A) of  
28 the Code. All of such employees shall be paid from funds  
29 appropriated to the ~~council~~ commission.

30 Sec. 7. Section four hundred fifty-five A point eleven  
31 (455A.11), Code 1975, is amended to read as follows:

32 455A.11 BONDS. The ~~council~~ executive director shall  
33 provide for the execution of surety bonds for all members  
34 and employees who shall be entrusted with funds and property  
35 and the premiums on all such surety bonds shall be paid from

1 the funds appropriated to the ~~eeuneit~~ commission.

2 Sec. 8. Section four hundred fifty-five A point twelve  
3 (455A.12), Code 1975, is amended to read as follows:

4 455A.12 WARRANTS. The comptroller is directed to draw  
5 warrants on the treasurer of the state for all disbursements  
6 authorized by this chapter upon duly itemized and verified  
7 vouchers bearing the approval of the executive director of  
8 the ~~eeuneit~~ department.

9 Sec. 9. Section four hundred fifty-five A point fourteen  
10 (455A.14), Code 1975, is amended to read as follows:

11 455A.14 DEPARTMENTAL CO-OPERATION. The ~~eeuneit~~ commission  
12 may request and receive from any department, division, board,  
13 bureau, commission, public body, or agency of the state, or  
14 of any political subdivision thereof, or from any organization,  
15 incorporated or unincorporated, which has for its object the  
16 control or use of any of the water resources of the state,  
17 such assistance and data as will enable the ~~eeuneit~~ commission  
18 to properly carry out its activities and effectuate its  
19 purposes hereunder. The ~~eeuneit~~ commission shall reimburse  
20 such agencies for special expensc resulting from expenditures  
21 not normally a part of the operating expenses of any such  
22 agency.

23 The ~~eeuneit, its agents and other employees~~ excutive  
24 director may enter upon any lands or waters in the state for  
25 the purpose of making any investigation, examination, or sur-  
26 vey contemplated by this chapter, subject to the provisions  
27 of section four hundred fifty-five B point three (455B.3),  
28 subsection eight (8) of the Code.

29 Sec. 10. Section four hundred fifty-five A point fifteen  
30 (455A.15), Code 1975, is amended to read as follows:

31 455A.15 EMINENT DOMAIN. The ~~eeuneit~~ commission shall  
32 have the right to exercise the power of eminent domain to  
33 carry out the provisions of this chapter. All the provisions  
34 of law relating to condemnation of lands for public state  
35 purposes shall apply to the provisions hereof in and so far

1 as applicable. The executive council shall institute and  
2 maintain such proceedings.

3 The ~~council~~ commission may accept gifts, contributions,  
4 donations and grants, and use the same for any purpose within  
5 the scope of this chapter.

6 Sec. 11. Section four hundred fifty-five A point sixteen  
7 (455A.16), Code 1975, is amended to read as follows:

8 455A.16 TITLE TO LANDS AND OTHER PROPERTY. The title  
9 to all lands, easements, or other interest therein, or other  
10 property or rights acquired by the ~~council~~ commission shall  
11 be approved by the attorney general and taken in the name  
12 of the state of Iowa.

13 Sec. 12. Section four hundred fifty-five A point seven-  
14 teen (455A.17), Code 1975, as amended by Acts of the Sixty-  
15 sixth General Assembly, 1975 Session, chapter thirty-eight  
16 (38), section three (3), is amended to read as follows:

17 455A.17 FUNCTIONS AND DUTIES. The ~~council~~ commission  
18 shall establish and enforce a comprehensive state-wide plan  
19 for the control, utilization and protection of the water  
20 resources of the state, which plan shall include all uses  
21 and developments of water resources and shall provide for  
22 the optimum control, protection, development, allocation and  
23 utilization thereof. All uses and developments of water  
24 resources regulated under provisions of this chapter must  
25 be found to be compatible with the state comprehensive plan  
26 prior to the granting of a permit by the ~~water-commissioner~~  
27 executive director or an approval order by the ~~council~~  
28 commission. In making and formulating such state comprehensive  
29 plan for the further control, development, protection,  
30 allocation, and utilization of the water resources of the  
31 state, the ~~council~~ commission shall make surveys and  
32 investigations of the water resources of the state and shall  
33 give consideration to the needs of agriculture, industry,  
34 health, fish and wildlife, recreation, pollution and allied  
35 matters as they relate to flood control and water resources.

1 Before implementation of the statewide plan, the ~~council~~  
2 commission shall submit the plan to the general assembly which  
3 shall approve or disapprove the plan pursuant to a concurrent  
4 resolution. Approval of the plan shall require the affirmative  
5 vote of a majority of the members of each house of the general  
6 assembly.

7 The ~~council~~ commission shall be the official representative  
8 of the state of Iowa on all comprehensive water resources  
9 planning groups for which state participation is provided.  
10 The ~~council~~ commission shall co-ordinate state planning with  
11 local and national planning and, in safeguarding the interests  
12 of the state and its people, shall undertake the resolution  
13 of any conflicts that may arise between the water resources  
14 policies, plans, and projects of the federal government and  
15 the water resources policies, plans, and projects of the  
16 state, its agencies, and its people. Nothing in this section  
17 assigning the overall responsibility for comprehensive planning  
18 of water resources to the ~~council~~ commission shall be construed  
19 as limiting or supplanting the functions, duties and  
20 responsibilities of the several state or local agencies or  
21 institutions with regard to planning of water associated  
22 projects within the particular area of responsibility of such  
23 state or local agency or institution.

24 The ~~council~~ commission shall enter into negotiations and  
25 agreements with the federal government relative to the  
26 operation of, or the release of water from, any project that  
27 has been authorized or constructed by the federal govern-  
28 ment when the ~~council~~ commission shall deem such negotia-  
29 tions and agreements to be necessary for the achievement of  
30 the policies of the state of Iowa relative to its water  
31 resources.

32 The ~~council~~ commission, on behalf of the state, shall enter  
33 into negotiations with the federal government relative to  
34 the inclusion of conservation storage features for water  
35 supply in any project that has been authorized by the federal

1 government when the ~~eeuneit~~ commission shall deem such  
2 negotiations to be necessary for the achievement of the  
3 policies of the state of Iowa and the state comprehensive  
4 plan for water resources; provided, however, that any  
5 agreements reached pursuant to such negotiations shall not  
6 bind the state until enacted into law by the legislature.

7 Water users who will benefit from the development by the  
8 federal government of conservation storage for water supply  
9 shall be encouraged to assume the responsibility for repaying  
10 to the federal government any reimbursable costs incurred  
11 in such development and such users who will accept benefits  
12 from such developments financed in whole or in part by the  
13 state shall assume by contract the responsibility of repaying  
14 to the state their reasonable share of the state's obligations  
15 in accordance with such basis as will assure payment within  
16 the life of the development. No appropriations, diversion,  
17 or use shall be made by any person of any of the waters of  
18 the state that have been stored or released from storage  
19 either under the authority of the state or pursuant to an  
20 agreement between the state and the federal government until  
21 such time as he shall have assumed by contract his repayment  
22 responsibility; provided, however, that the application of  
23 this provision shall in no way infringe upon any vested  
24 property interests.

25 In its contracts with water users for the payment of state  
26 obligations incurred in the development of conservation storage  
27 for water supply, the ~~eeuneit~~ commission shall include (1)  
28 such terms as it shall find reasonable and necessary for the  
29 protection of the health, safety, and general welfare of the  
30 people of the state, (2) such terms as it shall find rea-  
31 sonable and necessary for the achievement of the purposes  
32 of this chapter and acts amendatory thereof or supplemental  
33 thereto, and, (3) such terms as shall make clear that the  
34 state of Iowa shall not be responsible to any person in the  
35 event the waters involved are insufficient for performance.

1 The ~~executive~~ commission may designate and describe any such  
2 contract, and describe the relationships to which it relates,  
3 as a sale of storage capacity, a sale of water release  
4 services, a contract for the storage or sale of water, or  
5 any similar terms suggestive of the creation of a property  
6 interest. The term of such contracts shall be commensurate  
7 with the investment and use concerned but in no event shall  
8 the ~~executive~~ commission enter into any such contract for a  
9 term in excess of the maximum period provided for water use  
10 permits.

11 The ~~executive~~ commission shall procure and obtain flood  
12 control works and water resources projects from and through  
13 or by co-operation with the United States, or any agency of  
14 the United States, by co-operation with and action of the  
15 cities and other subdivisions of the state, under the laws  
16 of the state relating to flood control and use of water  
17 resources, and by co-operation with the action of landowners  
18 in areas affected thereby when the ~~executive~~ commission shall  
19 deem such projects to be necessary for the achievement of  
20 the policies of the state of Iowa and the state comprehensive  
21 plan for water resources.

22 The commission shall establish, and may modify or repeal,  
23 rules specifying the conditions under which the executive  
24 director shall issue, revoke, modify or deny permits for  
25 authorizing a person to take possession by diversion or other  
26 manner and to use and apply an allotted quantity of water  
27 for a designated beneficial use.

28 All agreements and contracts entered into by the commis-  
29 sion under this chapter shall be subject to approval of the  
30 executive committee.

31 Sec. 13. Section four hundred fifty-five A point eighteen  
32 (455A.18), Code 1975, is amended to read as follows:

33 455A.18 JURISDICTION--DIVERSION OF WATER. The ~~executive~~  
34 commission shall have jurisdiction over the public and private  
35 waters in the state and the lands adjacent thereto necessary

1 for the purposes of carrying out the provisions of this  
2 chapter. The ~~ecouneit~~ commission may construct flood control  
3 works or any part thereof. In the construction of such works  
4 or in making surveys and investigations or in formulating  
5 plans and programs relating to the water resources of the  
6 state, the ~~ecouneit~~ commission may co-operate with other states  
7 or any agency thereof or with the United States or any agency  
8 of the United States, or with any person as defined in this  
9 chapter.

10 Upon application by any person for permission to divert,  
11 pump, or otherwise take waters from any watercourse, under-  
12 ground basin or watercourse, drainage ditch or settling basin  
13 within the state of Iowa for any purpose other than a non-  
14 regulated use, the ~~ecouneit~~ executive director shall cause  
15 to be made an investigation of the effect of such use upon  
16 the natural flow of such watercourse, the effect of any such  
17 use upon the owners of any land which might be affected by  
18 such use, and the effect of any such use upon the state  
19 comprehensive plan for water resources, and shall hold a  
20 hearing thereon. Upon application by any person for approval  
21 of the construction or maintenance of any structure, dam,  
22 obstruction, deposit or excavation to be erected, used, or  
23 maintained in or on the flood plains of any river or stream,  
24 the ~~ecouneit~~ executive director shall cause an investigation  
25 to be made of the effect thereof on the efficiency and capacity  
26 of the floodway and on the state comprehensive plan for water  
27 resources. In determining the effect of any such proposal  
28 the ~~ecouneit~~ executive director shall consider fully its effect  
29 on flooding or flood control both to any proposed works and  
30 to adjacent lands and property, on the wise use and protection  
31 of water resources, on the quality of water, on fish, wildlife  
32 and recreational facilities or uses, and on all other public  
33 rights and requirements.

34 Sec. 14. Section four hundred fifty-five A point nine-  
35 teen (455A.19), subsections one (1), five (5), six (6), seven

1 (7), eight (8), nine (9), and ten (10), Code 1975, are amended  
2 to read as follows:

3 1. The application for a permit shall be made in writing  
4 to the ~~commissioner~~ executive director and shall set forth the  
5 designated beneficial use for which the permit is sought,  
6 the specific limits as to quantity, time, place, and rate  
7 of diversion, storage or withdrawal of waters.

8 5. The applicant for a permit shall pay a fee to the  
9 ~~commissioner~~ commission in the amount of twenty-five dollars at  
10 the time of filing his application which fee shall include  
11 the cost of publishing notice and which publication shall  
12 then be paid for by the ~~commissioner~~ commission. Such fee shall  
13 be used by the ~~commissioner~~ commission for administering this  
14 chapter, including the payment of expenses incurred in  
15 publishing legal notice.

16 6. The ~~commissioner~~ commission shall prescribe the rules of  
17 procedure for the conduct of the hearings subject to the  
18 approval of the executive committee and chapter seventeen  
19 A (17A) of the Code.

20 7. The determination of the ~~water-commissioner~~ executive  
21 director on any application before him shall be in writing,  
22 filed with the ~~commissioner~~ commission and shall set forth his  
23 findings. A copy of the determination shall be mailed to  
24 the applicant and to any person appearing who in writing  
25 requests a copy of the determination.

26 8. Any party aggrieved by the determination of the ~~water~~  
27 ~~commissioner~~ executive director may, within thirty days from  
28 the date such determination is filed, appeal therefrom to  
29 the ~~commissioner~~ commission setting forth in general terms the  
30 determination appealed from and the grounds of the appeal.  
31 The executive director shall set a time and place for hearing  
32 before the ~~commissioner~~ commission and shall then send a notice  
33 by ordinary mail to all persons who appeared at the hearing  
34 before the ~~water-commissioner~~ executive director.

35 9. The ~~commissioner~~ commission shall adopt rules for the conduct

1 of the hearing on appeal, subject to approval of the executive  
2 committee and chapter seventeen A (17A) of the Code, and shall  
3 file a determination in writing, setting forth findings.

4 A copy of the determination shall be mailed to the applicant  
5 or to any person appearing who in writing requests a copy  
6 of the determination.

7 10. The ~~water-commissioner~~ executive director or the  
8 ~~council~~ commission or other employee so authorized by the  
9 ~~council~~ commission at any hearing or other proceeding  
10 authorized by this chapter, shall have the power to administer  
11 oaths; take testimony; issue subpoenas and compel the  
12 attendance of witnesses, the subpoenas shall be served in  
13 the same manner as subpoenas issued by the courts of the  
14 state; and to order the taking of depositions in the same  
15 manner as depositions are taken under the Iowa Rules of Civil  
16 Procedure.

17 Sec. 15. Section four hundred fifty-five A point twenty  
18 (455A.20), unnumbered paragraph one (1), Code 1975, is amended  
19 to read as follows:

20 If the ~~water-commissioner~~ executive director at the first  
21 hearing or the ~~council~~ commission at the hearing on appeal  
22 shall determine after due investigation that such diversion,  
23 storage or withdrawal will not be detrimental to the public  
24 interests, including drainage and levee districts, or to the  
25 interests of property owners with prior or superior rights  
26 who might be affected, the ~~water-commissioner~~ executive  
27 director following the first hearing shall issue, or the  
28 ~~council~~ commission following the hearing on appeal shall grant  
29 direct the executive director to issue a permit for such  
30 diversion, storage or withdrawal. Judicial review of such  
31 action is available in accordance with the terms of the Iowa  
32 administrative procedure Act and section 455A.37. Permits  
33 may be granted for any period of time but not to exceed ten  
34 years. Permits may be granted which provide for less diver-  
35 sion, storage, or withdrawal of waters than set forth in the

1 application. Permits may be extended by the ~~water-commissioner~~  
2 executive director for a period of not more than ninety days  
3 during the pendency of an application for renewal. Any permit  
4 granted shall remain as an appurtenance of the land described  
5 therein through the date specified in such permit and any  
6 extension thereof or such earlier date as the permit or any  
7 extension thereof is revoked or canceled under the provisions  
8 of section 455A.28.

9 Sec. 16. Section four hundred fifty-five A point twenty-  
10 one (455A.21), Code 1975, is amended to read as follows:

11 455A.21 PRIORITY OF PERMITS. In the consideration of  
12 applications for permits, priority will be given to persons  
13 in the order applications are received. However, persons  
14 who have made diversion or withdrawal of water for a beneficial  
15 use prior to May 16, 1957, will be accorded priority according  
16 to the actual date of said diversion or withdrawal. The  
17 ~~water-commissioner~~ executive director or the ~~council~~ commission  
18 on appeal shall exercise their judgment on the quantity of  
19 water for which a permit may be granted. The use of water  
20 for ordinary household purposes, for poultry, livestock and  
21 domestic animals shall have priority over other uses. Any  
22 person with an existing irrigation system in use prior to  
23 May 16, 1957, shall be issued a permit to continue, unless  
24 by the use thereof some other riparian user is damaged. In  
25 the consideration of applications for permits by regulated  
26 users, the declared policies and principles of beneficial  
27 use, as set forth in this chapter, shall be the standard for  
28 the determination of the disposition of the applications for  
29 said permits. Nothing in this chapter shall impair the vested  
30 right of any person. ~~Prior-orders-of-the-council-shall-not~~  
31 ~~be-invalidated-by-the-provisions-of-sections-455A-19-to~~  
32 ~~455A-32-~~

33 Sec. 17. Section four hundred fifty-five A point twenty-  
34 two (455A.22), Code 1975, is amended to read as follows:

35 455A.22 PERMITS FOR BENEFICIAL USE. The ~~water-commis-~~

1 ~~gioner-and-the-council~~ executive director shall have the  
2 authority to issue a permit for beneficial use of water in  
3 a watercourse provided the established average minimum flow  
4 is preserved.

5 Sec. 18. Section four hundred fifty-five A point twenty-  
6 five (455A.25), subsection three (3), Code 1975, is amended  
7 to read as follows:

8 3. Any person who diverts water or any material from the  
9 surface directly into any underground watercourse or basin.  
10 Provided, however, that any diversion of water or material  
11 from the surface directly into any underground watercourse  
12 or basin existing upon May 16, 1957, shall not require a  
13 permit if said diversion does not create waste or pollution.  
14 ~~No-permit-shall-be-issued-under-this-subsection-until-the~~  
15 ~~approval-of-the-Iowa-water-pollution-control-commission-has~~  
16 ~~been-obtained-~~

17 Sec. 19. Section four hundred fifty-five A point twenty-  
18 nine (455A.29), Code 1975, is amended to read as follows:

19 455A.29 TERMINATION OF PERMIT. The right of the permit-  
20 tee and his successors to the use of water shall terminate  
21 when he ceases for three consecutive years to use it for the  
22 specific beneficial purpose authorized in his permit and the  
23 permittee has been notified by the water commission that  
24 unless written application as set forth as follows, that the  
25 permit will cease; provided, however, that upon his written  
26 application prior to the expiration of said three-year period  
27 for extension of said permit, the ~~council~~ executive director  
28 may grant such extension without loss of priority.

29 Sec. 20. Section four hundred fifty-five A point thirty  
30 (455A.30), Code 1975, is amended to read as follows:

31 455A.30 DISPOSAL OF PERMIT. A permittee may sell, trans-  
32 fer, or assign his permit by conveying, leasing, or other-  
33 wise transferring the ownership of the land described in the  
34 permit, but such permit shall not constitute ownership or  
35 absolute rights of use of such waters, but such waters shall

1 remain subject to the principle of beneficial use and the  
2 orders of the ~~commission~~ commission.

3 Sec. 21. Section four hundred fifty-five A point thirty-  
4 two (455A.32), Code 1975, is amended to read as follows:

5 455A.32 UNAUTHORIZED DEPLETING USES. In the event that  
6 any person shall file a complaint with the ~~commission~~ executive  
7 director that any other person is making a depleting use of  
8 water not expressly exempted as a nonregulated use under the  
9 provisions of this chapter and without a permit to do so,  
10 the ~~commission~~ executive director shall cause an investigation  
11 to be made and if the facts stated in the complaint are veri-  
12 fied the ~~commission~~ executive director shall order the  
13 discontinuance of the use.

14 Sec. 22. Section four hundred fifty-five A point thirty-  
15 three (455A.33), unnumbered paragraphs two (2), three (3),  
16 four (4) and five (5), Code 1975, are amended to read as  
17 follows:

18 The ~~commission~~ commission or the executive director shall  
19 have the power to commence, maintain and prosecute any  
20 appropriate action to enjoin or abate a nuisance, including  
21 any of the foregoing nuisances and any other nuisance which  
22 adversely affects flood control.

23 In the event any person desires to erect or make, or to  
24 suffer or permit, a structure, dam, obstruction, deposit or  
25 excavation, other than a dam, constructed and operated under  
26 the authority of chapter 469 as amended, to be erected, made,  
27 used or maintained in or on any floodway or flood plains,  
28 such person shall file a verified written application with  
29 the ~~commission~~ executive director, setting forth the material  
30 facts, and the ~~commission~~ commission or executive director after  
31 an investigation or hearing, shall enter an order, determining  
32 the fact and permitting or prohibiting the same, upon such  
33 terms and conditions as it may prescribe.

34 The ~~commission~~ commission or executive director shall have  
35 the authority to maintain an action in equity to enjoin any

1 such person from erecting or making or suffering or permitting  
2 to be made any structure, dam, obstruction, deposit, or  
3 excavation other than a dam constructed and operated under  
4 the authority of chapter 469, for which a permit has not been  
5 granted.

6 The ~~commission~~ commission shall have the power to remove or  
7 eliminate any structure, dam, obstruction, deposit or  
8 excavation in any floodway which adversely affects the effi-  
9 ciency of or unduly restricts the capacity of the floodway,  
10 by an action in condemnation, and in assessing the damages  
11 in such proceeding, the appraisers and the court shall take  
12 into consideration whether the structure, dam, obstruction,  
13 deposit or excavation is lawfully in or on the floodway.

14 Sec. 23. Section four hundred fifty-five A point thirty-  
15 five (455A.35), Code 1975, is amended to read as follows:

16 455A.35 ~~COMMISSION~~ COMMISSION--ESTABLISHED FLOOD PLAINS--  
17 ENCROACHMENT LIMITS. The ~~commission~~ commission may establish,  
18 and the executive director shall enforce, regulations for  
19 the orderly development and wise use of the flood plains of  
20 any river or stream within the state and alter, change, or  
21 revoke and terminate the same. The ~~commission~~ commission shall  
22 determine the characteristics of floods which reasonably may  
23 be expected to occur and may by order establish encroachment  
24 limits, protection methods and minimum protection levels  
25 appropriate to the flooding characteristics of the stream  
26 and to reasonable use of the flood plains. The order shall  
27 fix the length of flood plains to be regulated at any practical  
28 distance; shall fix the width of the zone between the  
29 encroachment limits so as to include portions of the flood  
30 plains adjoining the channel, which with the channel, are  
31 required to carry and discharge the flood waters or flood  
32 flow of such river or stream; and shall fix the design  
33 discharge and water surface elevations for which protection  
34 shall be provided for projects outside the encroachment limits  
35 but within the limits of inundation. Plans for the protection

1 of projects proposed for areas subject to inundation shall  
2 be reviewed as plans for flood control works within the purview  
3 of section 455A.36. No order establishing encroachment limits  
4 and flood plain regulations shall be issued until due notice  
5 of the proposed establishment thereof shall have been given  
6 and public hearings held and opportunity given for the  
7 presentation of all protests against the establishment thereof.  
8 In establishing any such limits or regulations, the ~~commission~~  
9 commission shall avoid to the greatest possible degree the  
10 evacuation of persons residing in the area of any floodway,  
11 the removal of any residential structures occupied by such  
12 persons in the area of any floodway, and the removal of any  
13 structures erected or made prior to July 4, 1965, which are  
14 located on the flood plains of any river or stream but not  
15 within the area of any floodway.

16 The ~~commission~~ commission may co-operate with and assist local  
17 units of government in the establishment of encroachment  
18 limits, flood plain regulations and zoning ordinances relating  
19 to flood plain areas within their jurisdiction. Encroachment  
20 limits, flood plain regulations, or flood plain zoning  
21 ordinances proposed by local units of government shall be  
22 submitted to the ~~commission~~ commission for review and approval  
23 prior to adoption by such local units of government. Changes  
24 or variations from an approved regulation or ordinance as  
25 it relates to flood plain use shall be approved by the ~~commission~~  
26 commission prior to adoption. Individual applications, plans  
27 and specifications and individual ~~commission~~ commission approval  
28 orders shall not be required for works on the flood plains  
29 constructed in conformity with encroachment limits, flood  
30 plain regulations, or zoning ordinances adopted by the local  
31 units of government and approved by the ~~commission~~ commission.

32 Sec. 24. Section four hundred fifty-five A point thirty-  
33 six (455A.36), unnumbered paragraph one (1), Code 1975, is  
34 amended to read as follows:

35 All works of any nature for flood control in the state,

1 which are hereafter established and constructed, shall be  
2 co-ordinated in design, construction and operation, according  
3 to sound and accepted engineering practice so as to effect  
4 the best flood control obtainable throughout the state. No  
5 person shall construct or install any works of any nature  
6 for flood control unless and until the proposed works and  
7 the plans and specifications therefor are approved by the  
8 ~~ecouneit~~ executive director. The interested persons shall  
9 file a verified written application with the ~~ecouneit~~ executive  
10 director therefor, and the ~~ecouneit~~ executive director after  
11 an investigation or hearing shall consider all the pertinent  
12 facts relating to the proposed works which will affect flood  
13 control and water resources in the state and shall determine  
14 whether the proposed works in the plans and specifications  
15 will be in aid of and acceptable as part of, or will adversely  
16 affect and interfere with flood control in the state, adversely  
17 affect the control, development, protection, allocation or  
18 utilization of the water resources of the state, or adversely  
19 affect or interfere with the state comprehensive plan for  
20 water resources or an approved local water resources plan,  
21 and shall enter an order approving or disapproving the  
22 application, plans and specifications. In the event of  
23 disapproval, the order shall set forth the objectionable  
24 features so that the proposed works and the plans and  
25 specifications therefor may be corrected or adjusted to obtain  
26 the approval of the ~~ecouneit~~ executive director.

27 Sec. 25. Section four hundred fifty-five A point thirty-  
28 seven (455A.37), Code 1975, is amended to read as follows:

29 455A.37 JUDICIAL REVIEW. Judicial review of action of  
30 the ~~ecouneit~~ commission may be sought in accordance with the  
31 terms of the Iowa administrative procedure Act.

32 Notwithstanding the provisions of said Act, petitions for  
33 judicial review may be filed in the district court of Polk  
34 county or of any county in which the property affected is  
35 located. If the ~~ecouneit~~ commission, the district court, or

1 the supreme court shall determine that the order of the ~~commission~~  
2 commission be stayed, the petitioner shall file an appro-  
3 priate bond approved by the court.

4 Sec. 26. Section four hundred fifty-five A point thirty-  
5 eight (455A.38), Code 1975, is amended to read as follows:

6 455A.38 EXECUTIVE PREROGATIVES. The ~~commission~~ commission  
7 shall have no executive prerogatives outside of its own duties  
8 and functions as set out by this chapter and shall not disturb  
9 the work, functions or authority of any of the several state  
10 or local agencies and institutions, provided the powers  
11 conferred upon the ~~commission~~ commission by this chapter shall  
12 not be exercised by any other of the agencies or institutions.

13 Sec. 27. Section four hundred fifty-five A point forty  
14 (455A.40), unnumbered paragraph one (1) and subsection three  
15 (3), Code 1975, are amended to read as follows:

16 The ~~commission~~ commission and the boards of the several  
17 conservancy districts established by chapter 467D shall co-  
18 ordinate their efforts in carrying out the purposes of this  
19 chapter and chapter 467D. In addition to other powers and  
20 duties conferred by law upon the ~~commission~~ commission, it shall:

21 3. Inform the board of any conservancy district:

22 a. Of the receipt of each application for a permit to  
23 divert, store, or withdraw either surface or underground  
24 waters at any place within the district, filed with the ~~commission~~  
25 commission pursuant to section 455A.19 to section 455A.32.

26 b. Of the receipt of each application for approval of  
27 a proposed dam, obstruction, deposit or excavation in or on  
28 any floodway or flood plain in the district, filed with the  
29 ~~commission~~ executive director pursuant to section 455A.33.

30 c. Of any proposed order which would establish encroach-  
31 ment limits and zoning regulations on any flood plain in the  
32 district, filed with the ~~commission~~ commission pursuant to section  
33 455A.35.

34 d. Of the receipt of each application for approval of  
35 any proposed flood control structure or works, filed with

1 the ~~council~~ executive director pursuant to section 455A.36.

2 Sec. 28. Chapter four hundred fifty-five A (455A), Code  
3 1975, is amended by adding the following new section:

4 NEW SECTION. PRIOR RULES, ORDERS OR PERMITS. Any rule  
5 adopted or order or permit issued under this chapter by the  
6 Iowa natural resources council abolished by this Act shall  
7 remain effective until modified or rescinded by action of  
8 the commission as provided in this chapter.

9 Sec. 29. Section eighty-four point two (84.2), subsec-  
10 tions eleven (11), twelve (12), fourteen (14), and sixteen  
11 (16), Code 1975, are amended to read as follows:

12 11. "Illegal oil" means oil which has been produced from  
13 any well within the state in excess of the quantity permitted  
14 by any rule or order of the ~~council~~ state geologist.

15 12. "Illegal gas" means gas which has been produced from  
16 any well within this state in excess of the quantity permit-  
17 ted by any rule or order of the ~~council~~ state geologist.

18 14. "Certificate of clearance" means a permit prescribed  
19 by the ~~council~~ state geologist for the transportation or the  
20 delivery of oil or gas or product and issued or registered  
21 in accordance with the rule or order requiring such permit.

22 16. "~~Council~~ State geologist" means ~~Iowa-natural-resources~~  
23 ~~council-as-defined-in-chapter-455A~~ the state geologist or  
24 his designee.

25 Sec. 30. Section eighty-four point four (84.4), unnum-  
26 bered paragraph one (1) and subsection one (1), paragraphs  
27 d, e, and i, Code 1975, are amended to read as follows:

28 ~~The council has the duty of administering the provisions~~  
29 ~~of this chapter.~~ The state geologist shall act as adminis-  
30 ~~trator with the duty and responsibility of enforcing the regu-~~  
31 ~~lations and orders of the council~~ administer the provisions  
32 of this chapter and may adopt, modify or rescind rules and  
33 issue orders applicable to the crude petroleum oil and natural  
34 gas resources of this state and the provisions of this chapter.  
35 The ~~council~~ state geologist has the duty and authority to

1 make such investigations as ~~it~~ he deems proper to determine  
2 whether waste exists or is imminent or whether other facts  
3 exist which justify action. The ~~council-acting-through-the~~  
4 ~~office-of-the~~ state geologist has the authority:

5 d. The furnishing of a reasonable bond with good and  
6 sufficient surety, conditioned upon the full compliance with  
7 the provisions of this chapter, and the rules ~~of-the-council~~  
8 prescribed adopted under this chapter to govern the production  
9 of oil and gas on state and private lands within the state  
10 of Iowa;

11 e. That the production from wells be separated into gaseous  
12 and liquid hydrocarbons, and that each be accurately measured  
13 by such means and upon such standards as may be prescribed  
14 by the ~~council~~ state geologist;

15 i. That every person who produces, sells, purchases,  
16 acquires, stores, transports, refines, or processes native  
17 and indigenous Iowa produced crude oil or gas in this state  
18 shall keep and maintain within this state complete and accurate  
19 records of the quantities thereof, which records shall be  
20 available for examination by the ~~council-or-its-agent~~ state  
21 geologist at all reasonable times, and that every such person  
22 file with the ~~council~~ state geologist such reports as ~~it~~ he  
23 may prescribe with respect to such oil or gas or the products  
24 thereof.

25 Sec. 31. Section eighty-four point five (84.5), Code 1975,  
26 is amended to read as follows:

27 84.5 DRILLING PERMIT REQUIRED. It shall be unlawful to  
28 commence operations for the drilling of a well for oil or  
29 gas or commence operations to deepen any well to a different  
30 geological formation without first giving the state geologist  
31 notice of intention to drill, or without first obtaining a  
32 permit from the state geologist, under such rules as may be  
33 prescribed by the ~~council~~ state geologist and paying to the  
34 ~~council~~ state geologist a fee of fifty dollars for such well.  
35 Such fee shall be used by the ~~council~~ state geologist for

1 administering this chapter, including the payment of expenses  
2 incurred in publishing legal notice.

3 Sec. 32. Section eighty-four point six (84.6), Code 1975,  
4 is amended to read as follows:

5 84.6 ~~COUNCIL~~ STATE GEOLOGIST SHALL DETERMINE MARKET DEMAND  
6 AND REGULATE THE AMOUNT OF PRODUCTION. The ~~coouncil~~ state  
7 geologist shall determine market demand for each marketing  
8 district and regulate the amount of production as follows:

9 1. The ~~coouncil~~ state geologist shall limit the production  
10 of oil and gas within each marketing district to that amount  
11 which can be produced without waste, and which does not exceed  
12 the reasonable market demand.

13 2. Whenever the ~~coouncil~~ state geologist limits the total  
14 amount of oil or gas which may be produced in the state or  
15 a marketing district, the ~~coouncil~~ state geologist shall  
16 allocate or distribute the allowable production among the  
17 pools therein on a reasonable basis, giving, where reason-  
18 able under the circumstances to each pool with small wells  
19 of settled production, an allowable production which prevents  
20 the general premature abandonment of such wells in the pool.

21 3. Whenever the ~~coouncil~~ state geologist limits the total  
22 amount of oil or gas which may be produced in any pool in  
23 this state to an amount less than that amount which the pool  
24 could produce if no restriction were imposed, which limi-  
25 tation is imposed either incidental to, or without, a limi-  
26 tation of the total amount of oil or gas produced in the mar-  
27 keting district wherein the pool is located, the ~~coouncil~~ state  
28 geologist shall allocate or distribute the allowable production  
29 among the several wells or producing properties in the pool  
30 on a reasonable basis, preventing or minimizing reasonable  
31 avoidable drainage, so that each property will have the  
32 opportunity to produce or to receive its just and equitable  
33 share, subject to the reasonable necessities for the preven-  
34 tion of waste.

35 4. In allocating the market demand for gas as between

1 pools within marketing districts, the ~~conseil~~ state geologist  
2 shall give due regard to the fact that gas produced from oil  
3 pools is to be regulated in a manner as will protect the  
4 reasonable use of its energy for oil production.

5 5. The ~~conseil~~ state geologist shall not be required to  
6 determine the reasonable market demand applicable to any  
7 single pool, except in relation to all other pools within  
8 the same marketing district, and in relation to the demand  
9 applicable to the marketing district. In allocating allowables  
10 to pools, the ~~conseil~~ state geologist may consider, but shall  
11 not be bound by nominations of purchasers to purchase from  
12 particular fields, pools, or portions thereof. The ~~conseil~~  
13 state geologist shall allocate the total allowable for the  
14 state in such manner as prevents undue discrimination between  
15 marketing districts, fields, pools, or portions thereof  
16 resulting from selective buying or nomination by purchasers.

17 Sec. 33. Section eighty-four point seven (34.7), unnum-  
18 bered paragraph one (1), subsections one (1) and four (4),  
19 Code 1975, are amended to read as follows:

20 The ~~conseil~~ state geologist shall set spacing units as  
21 follows:

22 1. When necessary to prevent waste, to avoid the drilling  
23 of unnecessary wells, or to protect correlative rights, the  
24 ~~conseil~~ state geologist shall establish spacing units for  
25 a pool. Spacing units when established shall be of uniform  
26 size and shape for the entire pool, except that when found  
27 to be necessary for any of the purposes above-mentioned, the  
28 ~~conseil-is-authorized-to~~ state geologist may divide any pool  
29 into zones and establish spacing units for each zone, which  
30 units may differ in size and shape from those established  
31 in any other zone.

32 4. An order establishing units for a pool shall cover  
33 all lands determined or believed to be underlaid by such pool,  
34 and may be modified by the state geologist from time to time  
35 to include additional areas determined to be underlaid by

1 such pool. When found necessary for the prevention of waste,  
2 or to avoid the drilling of unnecessary wells or to protect  
3 correlative rights, an order establishing spacing units in  
4 a pool may be modified by the state geologist to increase  
5 the size of spacing units in the pool or any zone thereof,  
6 or to permit the drilling of additional wells on a reasonable  
7 uniform plan in the pool, or any zone thereof. ~~Orders of~~  
8 ~~the state geologist may be appealed to the council within~~  
9 ~~thirty days.~~

10 Sec. 34. Section eighty-four point eight (84.8), Code  
11 1975, is amended to read as follows:

12 84.8 INTEGRATION OF FRACTIONAL TRACTS.

13 1. When two or more separately owned tracts are embraced  
14 within a spacing unit, or when there are separately owned  
15 interests in all or a part of the spacing unit, then the  
16 owners and royalty owners thereof may pool their interests  
17 for the development and operation of the spacing unit. In  
18 the absence of voluntary pooling the ~~council~~ state geolo-  
19 gist upon the application of any interested person, shall  
20 enter an order pooling all interests in the spacing unit for  
21 the development and operations thereof. Each such pooling  
22 order shall be made after notice and hearing, and shall be  
23 upon terms and conditions that are just and reasonable, and  
24 that afford to the owner of each tract or interest in the  
25 spacing unit the opportunity to recover or receive, without  
26 unnecessary expense, his just and equitable share. Operations  
27 incident to the drilling of a well upon any portion of a  
28 spacing unit covered by a pooling order shall be deemed for  
29 all purposes, the conduct of such operations upon each  
30 separately owned tract in the drilling unit by the several  
31 owners thereof. That portion of the production allocated  
32 to each tract included in a spacing unit covered by a pooling  
33 order shall, when produced, be deemed for all purposes to  
34 have been produced from such tract by a well drilled thereon.  
35 2. Each such pooling order shall make provision for the

1 drilling and operation of a well on the spacing unit, and  
2 for the payment of the reasonable actual cost thereof by the  
3 owners of interests in the spacing unit, plus a reasonable  
4 charge for supervision. In the event of any dispute as to  
5 such costs the ~~council~~ state geologist shall determine the  
6 proper costs. If one or more of the owners shall drill and  
7 operate, or pay the expenses of drilling and operating the  
8 well for the benefit of others, then, the owner or owners  
9 so drilling or operating shall, upon complying with the terms  
10 of section 84.10, have a lien on the share of production from  
11 the spacing unit accruing to the interest of each of the other  
12 owners for the payment of his proportionate share of such  
13 expenses. All the oil and gas subject to the lien shall be  
14 marketed and sold and the proceeds applied in payment of the  
15 expenses secured by such lien as provided for in section  
16 84.10.

17 Sec. 35. Section eighty-four point nine (84.9), Code 1975,  
18 is amended to read as follows:

19 84.9 VOLUNTARY AGREEMENTS FOR UNIT OPERATION VALID. An  
20 agreement for the unit or co-operative development and opera-  
21 tion of a field or pool, in connection with the conduct of  
22 a repressuring or pressure maintenance operations, cycling  
23 or recycling operations, including the extraction and  
24 separation of liquid hydrocarbons from natural gas in  
25 connection therewith, or any other method of operation,  
26 including water floods, is authorized and may be performed  
27 and shall not be held or construed to violate any of the  
28 statutes of this state relating to trusts, monopolies, or  
29 contracts and combinations in restraint of trade, if the  
30 agreement is approved by the ~~council~~ state geologist as being  
31 in the public interest, protective of correlative rights,  
32 and reasonably necessary to increase ultimate recovery or  
33 to prevent waste of oil or gas. Such agreements bind only  
34 the persons who execute them, and their heirs, successors,  
35 assigns, and legal representatives.

1 Sec. 36. Section eighty-four point eleven (84.11), Code  
2 1975, is amended to read as follows:

3 84.11 RULES COVERING PRACTICE BEFORE ~~COUNCI~~ STATE  
4 GEOLOGIST.

5 1. The ~~counci~~ state geologist shall prescribe rules  
6 governing the practice and procedure before it.

7 2. No order, or amendment thereof, except in an emergency,  
8 shall be made by the ~~counci~~ state geologist without a public  
9 hearing upon at least ten days' notice. The public hearing  
10 shall be held at such time and place as may be prescribed  
11 by the ~~counci~~ state geologist, and any interested person  
12 shall be entitled to be heard.

13 3. When an emergency requiring immediate action is found  
14 to exist the ~~counci~~ state geologist is authorized to issue  
15 an emergency order without notice of hearing, which shall  
16 be effective upon promulgation. No emergency order shall  
17 remain effective for more than fifteen days.

18 4. Any notice required by this chapter shall be given  
19 at the election of the ~~counci~~ state geologist either by  
20 personal service or by letter to the last recorded address  
21 and one publication in a newspaper of general circulation  
22 in the state capital city and in a newspaper of general circu-  
23 lation in the county where the land affected, or some part  
24 thereof, is situated. The notice shall issue in the name  
25 of the state, shall be signed by the state geologist, shall  
26 specify the style and number of the proceeding, the time and  
27 place of the hearing, and shall briefly state the purpose  
28 of the proceeding. Should the ~~counci~~ state geologist elect  
29 to give notice by personal service, such service may be made  
30 by any officer authorized to serve process, or by any agent  
31 of the ~~counci~~ state geologist, in the same manner as is  
32 provided by law for the service of original notices in civil  
33 actions in the district court of the state. Proof of the  
34 service by such agent shall be by the affidavit of the per-  
35 son making personal service.

1        5. All orders issued by the ~~council~~ state geologist shall  
2 be in writing, shall be entered in full and indexed in books  
3 to be kept by the state geologist for that purpose, and shall  
4 be public records open for inspection at all times during  
5 reasonable office hours. A copy of any rule or order certified  
6 by the state geologist ~~or any officer of the council~~ shall  
7 be received in evidence in all courts of this state with the  
8 same effect as the original.

9        6. The ~~council~~ state geologist may act upon ~~its~~ his own  
10 motion, or upon the petition of any interested person. On  
11 the filing of a petition concerning any matter within the  
12 jurisdiction of the ~~council~~ state geologist, the ~~council~~ state  
13 geologist shall promptly fix a date for a hearing thereon,  
14 and shall cause notice of the hearing to be given. The hearing  
15 shall be held without undue delay after the filing of the  
16 petition. The ~~council~~ state geologist shall enter ~~its~~ his  
17 order within thirty days after the hearing.

18        Sec. 37. Section eighty-four point twelve (84.12), Code  
19 1975, is amended to read as follows:

20        84.12 SUMMONING WITNESSES, ADMINISTERING OATHS, REQUIRING  
21 PRODUCTION OF RECORDS--HEARING EXAMINERS APPOINTED.

22        1. The ~~council~~ state geologist shall have the power to  
23 summon witnesses, to administer oaths, and require the pro-  
24 duction of records, books, and documents for examination at  
25 any hearing or investigation conducted. No person shall be  
26 excused from attending and testifying, or from producing  
27 books, papers, and records before the ~~council~~ state geologist  
28 or a court, or from obedience to the subpoena of the ~~council~~  
29 state geologist or a court, on the ground or for the rea-  
30 son that the testimony or evidence, documentary or otherwise,  
31 required of him may tend to incriminate him or subject him  
32 to a penalty or forfeiture; provided, that nothing herein  
33 contained shall be construed as requiring any person to produce  
34 any books, papers, or records, or to testify in response to  
35 any inquiry not pertinent to some question lawfully before

1 such ~~council~~ state geologist or court for determination.  
2 No natural person shall be subjected to criminal prosecution  
3 or to any penalty or forfeiture for or on account of any  
4 transaction, matter, or thing concerning which, in spite of  
5 his objections, he may be required to testify or produce  
6 evidence, documentary or otherwise, before the ~~council~~ state  
7 geologist or court, or in obedience to subpoena; provided,  
8 that no person testifying shall be exempted from prosecution  
9 and punishment for perjury committed in so testifying.

10 2. In case of failure or refusal on the part of any per-  
11 son to comply with the subpoena issued by the ~~council~~ state  
12 geologist, or in case of the refusal of any witness to testify  
13 as to any matter regarding which he may be interrogated,  
14 any court in the state, upon the application of the ~~council~~  
15 state geologist, may issue an attachment for such person and  
16 compel him to comply with such subpoena, and to attend before  
17 the ~~council~~ state geologist and produce such records, books,  
18 and documents, for examination, and to give his testimony.  
19 Such courts shall have the power to punish for contempt as  
20 in the case of disobedience to a like subpoena issued by the  
21 court, or for refusal to testify therein.

22 3. The ~~council~~ state geologist may appoint a hearing  
23 examiner or examiners to conduct hearings required by this  
24 chapter. When so appointed, such hearing examiner or examiners  
25 shall have and exercise all of the powers delegated to the  
26 ~~council~~ state geologist by this section.

27 Sec. 38. Section eighty-four point thirteen (84.13), Code  
28 1975, is amended to read as follows:

29 84.13 PERSON ADVERSELY AFFECTED--REHEARING. Any person  
30 adversely affected by any order of the ~~council~~ state geologist  
31 may within thirty days after its effective date apply to the  
32 ~~council~~ state geologist in writing for a rehearing. The  
33 application for rehearing shall be acted upon within fifteen  
34 days after its filing, and if granted, the rehearing shall  
35 be held without undue delay.

1       Sec. 39. Section eighty-four point fourteen (84.14), Code  
2 1975, is amended to read as follows:

3       84.14 APPEAL TO DISTRICT COURT--PROCEDURE OF APPEAL.

4       1. Judicial review of action of the ~~conseil~~ state geologist  
5 may be sought in accordance with the terms of the Iowa  
6 administrative procedure Act. Notwithstanding the terms of  
7 the Iowa administrative procedure Act, petitions for judicial  
8 review may be filed in the district court of Polk county or  
9 in the district court of any county in which the property  
10 affected or some portion thereof is located.

11       2. If at the time of filing of the petition for judicial  
12 review suspension of the order is asked for, the ~~conseil~~ state  
13 geologist shall enter an order fixing the amount of the  
14 supersedeas bond. Within ten days after the entry of an order  
15 by the ~~conseil~~ state geologist which fixes the amount of the  
16 bond, the petitioner must file with the ~~conseil~~ state geologist  
17 a supersedeas bond in the required amount and with proper  
18 surety; upon approval of the bond, the ~~conseil~~ state geologist  
19 shall suspend the order complained of until its final  
20 disposition upon review. The bond shall run in favor of the  
21 state of Iowa for the use and benefit of any person who may  
22 suffer damage by reason of the suspension of the order in  
23 the event the same is affirmed by the district court. If  
24 the order of the ~~conseil~~ state geologist is not superseded,  
25 it shall continue in force and effect as if no petition for  
26 judicial review was pending.

27       3. The district court shall, insofar as is practicable,  
28 give precedence to petitions for judicial review of orders  
29 of the ~~conseil~~ state geologist.

30       Sec. 40. Section eighty-four point fifteen (84.15), sub-  
31 section one (1), paragraph b and subsection two (2), Code  
32 1975, are amended to read as follows:

33       b. Such person fails to obtain a certificate of clearance  
34 with respect to such oil, gas, or product where prescribed  
35 by order of the ~~conseil~~ state geologist, or fails to fol-

1 low any other method prescribed by an order of the ~~commissioner~~  
2 state geologist for the identification of such oil, gas or  
3 product.

4 2. Illegal oil, illegal gas, and illegal product are  
5 declared to be contraband and are subject to seizure and sale  
6 as herein provided; seizure and sale to be in addition to  
7 any and all other remedies and penalties provided in this  
8 chapter for violations relating to illegal oil, illegal gas,  
9 or illegal product. Whenever the ~~commissioner~~ state geologist  
10 believes that any oil, gas or product is illegal, the ~~com-~~  
11 ~~missioner~~ state geologist acting by the attorney general, shall  
12 bring a civil action in rem in the district court of the  
13 county where such oil, gas, or product is found, to seize  
14 and sell the same, or the ~~commissioner~~ state geologist may include  
15 such an action in rem for the seizure and sale of illegal  
16 oil, illegal gas, or illegal product in any suit brought for  
17 an injunction or penalty involving illegal oil, illegal gas,  
18 or illegal product. Any person claiming an interest in oil,  
19 gas, or product affected by any such action shall have the  
20 right to intervene as an interested party in such action.

21 Sec. 41. Section eighty-four point sixteen (84.16), Code  
22 1975, is amended to read as follows:

23 84.16 PENALTIES.

24 1. Any person who violates any provision of this chap-  
25 ter, or any rule or order of the ~~commissioner~~ state geologist shall  
26 be subject to a penalty of not more than one thousand dollars  
27 for each act of violation and for each day that such violation  
28 continues, unless the penalty for such violation is otherwise  
29 specifically provided for and made exclusive in this chapter.

30 2. If any person, for the purpose of evading this chapter,  
31 or any rule or order of the ~~commissioner~~ state geologist, shall  
32 make or cause to be made any false entry or statement in a  
33 report required by this chapter or by any such rule or order,  
34 or shall make or cause to be made any false entry in any  
35 record, account, or memorandum required by this chapter, or

1 by any such rule or order, or shall omit, or cause to be  
2 omitted, from any such record, account, or memorandum, full,  
3 true, and correct entries as required by this chapter, or  
4 by any such rule or order, or shall remove from this state  
5 or destroy, mutilate, alter or falsify any such record,  
6 account, or memorandum, such person shall be guilty of a  
7 misdemeanor and, upon conviction, shall be subject to a fine  
8 of not more than five thousand dollars or imprisonment in  
9 a county jail for a term not exceeding six months, or to both  
10 such fine and imprisonment.

11 3. Any person knowingly aiding or abetting any other per-  
12 son in the violation of any provision of this chapter, or  
13 any rule or order of the ~~council~~ state geologist shall be  
14 subject to the same penalty as that prescribed by this chapter  
15 for the violation by such other person.

16 4. The penalties provided in this section shall be  
17 recoverable by suit filed by the attorney general in the name  
18 and on behalf of the ~~council~~ state geologist, in the district  
19 court of the county in which the defendant resides, or in  
20 which any defendant resides, if there be more than one  
21 defendant, or in the district court of any county in which  
22 the violation occurred. The payment of any such penalty shall  
23 not operate to legalize any illegal oil, illegal gas, or  
24 illegal product involved in the violation for which the penalty  
25 is imposed, or to relieve a person on whom the penalty is  
26 imposed from liability to any other person for damages arising  
27 out of such violation.

28 Sec. 42. Section eighty-four point seventeen (84.17),  
29 Code 1975, is amended to read as follows:

30 84.17 ACTION TO RESTRAIN VIOLATION OR THREATENED VIOLA-  
31 TION.

32 1. Whenever it appears that any person is violating or  
33 threatening to violate any provision of this chapter, or any  
34 rule or order of the ~~council~~ state geologist, the ~~council~~  
35 state geologist shall bring suit against such person in the

1 district court of any county where the violation occurs or  
2 is threatened, to restrain such person from continuing such  
3 violation or from carrying out the threat of violation. In  
4 any such suit, the court shall have jurisdiction to grant  
5 to the ~~county~~ state geologist, without bond or other  
6 undertaking, such prohibitory and mandatory injunctions as  
7 the facts may warrant, including temporary restraining orders,  
8 preliminary injunctions, temporary, preliminary, or final  
9 orders restraining the movement or disposition of any illegal  
10 oil, illegal gas, or illegal product, any of which the court  
11 may order to be impounded or placed in the custody of an agent  
12 appointed by the court.

13 2. If the ~~county~~ state geologist shall fail to bring  
14 suit to enjoin a violation or threatened violation of any  
15 provision of this chapter, or any rule or order of the ~~county~~  
16 state geologist, within ten days after receipt of written  
17 request to do so by any person who is or will be adversely  
18 affected by such violation, the person making such request  
19 may bring suit in his own behalf to restrain such violation  
20 or threatened violation in any court in which the ~~county~~  
21 state geologist might have brought suit. The ~~county~~ state  
22 geologist shall be made a party defendant in such suit in  
23 addition to the person violating or threatening to violate  
24 a provision of this chapter, or a rule or order of the ~~county~~  
25 state geologist, and the action shall proceed and injunctive  
26 relief may be granted to the ~~county~~ state geologist or the  
27 petitioner without bond in the same manner as if suit had  
28 been brought by the ~~county~~ state geologist.

29 Sec. 43. Chapter eighty-four (84), Code 1975, is amended  
30 by adding the following new section:

31 NEW SECTION. PRIOR ORDERS, RULES OR PERMITS. Any rule  
32 adopted, or order or permit issued under this chapter by the  
33 Iowa natural resources council abolished by this Act shall  
34 remain effective until modified or rescinded by action of  
35 the state geologist as provided in this chapter.

1 Sec. 44. Section sixty-eight B point two (68B.2), sub-  
2 section four (4), Code 1975, is amended to read as follows:

3 4. "Regulatory agency" means department of agriculture,  
4 industrial commissioner, bureau of labor, employment security  
5 commission, department of banking, insurance department of  
6 Iowa, state department of health, department of public safety,  
7 department of public instruction, state board of regents,  
8 department of social services, department of revenue, Iowa  
9 state commerce commission, Iowa beer and liquor control  
10 department, board of pharmacy examiners, state conservation  
11 commission, state department of transportation, Iowa state  
12 civil rights commission, department of soil conservation,  
13 department of public defense, office of state geologist, and  
14 ~~Iowa-natural-resources-council~~ department of environmental  
15 quality.

16 Sec. 45. Section eighty-three A point three (83A.3),  
17 subsection five (5), Code 1975, is amended to read as follows:

18 5. One member representing the ~~Iowa-natural-resources~~  
19 ~~council~~ water quality commission of the department of  
20 environmental quality.

21 Sec. 46. Section one hundred eight point seven (108.7),  
22 unnumbered paragraph two (2), Code 1975, is amended to read  
23 as follows:

24 Any action taken by the commission under the provisions  
25 of this section shall be subject to the approval of the ~~Iowa~~  
26 ~~natural-resources-council~~ water quality commission of the  
27 department of environmental quality.

28 Sec. 47. Section one hundred nine point fifteen (109.15),  
29 Code 1975, is amended to read as follows:

30 109.15 INJURY TO DAM. It shall be unlawful for any owner  
31 or his agent to remove or destroy any existing dam, or alter  
32 it in a way so as to lower the water level, without having  
33 received written approval from the ~~Iowa-natural-resources~~  
34 ~~council~~ water quality commission of the department of environ-  
35 mental quality.

1 Sec. 48. Section one hundred eleven point four (111.4),  
2 unnumbered paragraph one (1), Code 1975, is amended to read  
3 as follows:

4 No person, association or corporation shall build or erect  
5 any pier, wharf, sluice, piling, wall, fence, obstruction,  
6 building or erection of any kind upon or over any state-owned  
7 land or water under the jurisdiction of the commission, with-  
8 out first obtaining from such commission a written permit,  
9 provided, however, that this provision shall not apply to  
10 dams constructed and operated under the authority of chapter  
11 469. No such permit, in matters relating to or in any manner  
12 affecting flood control, shall be issued without approval  
13 of the ~~ewa-natural-resources-council~~ water quality commis-  
14 sion of the department of environmental quality. No person  
15 shall maintain or erect any structure beyond the line of pri-  
16 vate ownership along or upon the shores of state-owned waters  
17 in such a manner as to obstruct the passage of pedestrians  
18 along the shore between the ordinary high-water mark and the  
19 water's edge, except by permission of the commission.

20 Sec. 49. Section one hundred eleven point eighteen  
21 (111.18), Code 1975, is amended to read as follows:

22 111.18 JURISDICTION. Jurisdiction over all meandered  
23 streams and lakes of this state and of state lands bordering  
24 thereon, not now used by some other state body for state pur-  
25 poses, is conferred upon the commission. The exercise of  
26 this jurisdiction shall be subject to the approval of the  
27 ~~ewa-natural-resources-council~~ water quality commission of  
28 the department of environmental quality in matters relating  
29 to or in any manner affecting flood control. The commission,  
30 with the approval of the executive council, may establish  
31 parts of such property into state parks, and when so  
32 established all of the provisions of this chapter relative  
33 to public parks shall apply thereto.

34 Sec. 50. Section one hundred eleven point sixty-two  
35 (111.62), Code 1975, is amended to read as follows:

1 111.62 COPY TO ~~RESOURCES-COUNCIL~~ WATER QUALITY COMMISSION.

2 A copy of the petition and such applications, plans, and  
3 specifications as are required under the provisions of chapter  
4 455A shall be filed with the ~~ewa-natural-resources-council~~  
5 water quality commission of the department of environmental  
6 quality and any approval or permit required thereunder shall  
7 be obtained prior to the establishment of said water  
8 recreational area or the granting of a permit therefor by  
9 the state conservation commission.

10 Sec. 51. Section one hundred eleven D point one (111D.1),  
11 Code 1975, is amended to read as follows:

12 111D.1 ACQUISITION BY OTHER THAN CONDEMNATION. The state  
13 conservation commission, the ~~ewa-natural-resources-council~~  
14 water quality commission of the department of environmental  
15 quality, any county conservation board, and any city  
16 or agency thereof may acquire by purchase, gift, contract,  
17 or other voluntary means, but not by eminent domain,  
18 conservation easements in land to preserve scenic beauty,  
19 wildlife habitat, riparian lands, wet lands, or forests,  
20 promote outdoor recreation, or otherwise conserve for the  
21 benefit of the public the natural beauty, natural resources,  
22 and public recreation facilities of the state.

23 Sec. 52. Section one hundred twelve point three (112.3),  
24 Code 1975, is amended to read as follows:

25 112.3 HEARING--DAMAGES. After said approval the commis-  
26 sion, if it wishes to proceed further with the project, shall,  
27 with the consent of the ~~ewa-natural-resources-council~~ water  
28 quality commission of the department of environmental quality,  
29 fix a date of hearing not less than two weeks from date of  
30 approval of the plan. Notice of the day, hour and place of  
31 hearing, relative to proposed work, shall be provided by  
32 publication at least once a week for two consecutive weeks  
33 in some newspaper of general circulation published in the  
34 county where the project is located, or in the county or  
35 counties where the water elevations are affected, under the

1 tentative plan approved. The last of such publication or  
2 publications shall not be less than five days prior to the  
3 day set for hearing. Any claim by any persons whomsoever,  
4 for damages which may be caused by said project shall be filed  
5 with the commission at or prior to the time of the hearing  
6 provided herein.

7 Sec. 53. Section three hundred eight point one (308.1),  
8 Code 1975, is amended to read as follows:

9 308.1 PLANNING COMMISSION. The Mississippi parkway plan-  
10 ning commission shall be composed of ten members appointed  
11 by the governor, five members to be appointed for two-year  
12 terms beginning July 1, 1959, and five members to be appointed  
13 for four-year terms beginning July 1, 1959. In addition to  
14 the above members there shall be seven advisory ex officio  
15 members who shall be as follows: One member from the state  
16 transportation commission, one member from the state conserva-  
17 tion commission, one member from the Iowa state soil conser-  
18 vation commission, one member from the state historical society  
19 of Iowa, one member from the faculty of the landscape archi-  
20 tectural division of the Iowa State University of science  
21 and technology, one member from the Iowa development com-  
22 mission, and one member from the ~~natural-resources-council~~  
23 water quality commission of the department of environmental  
24 quality. Members and ex officio members shall serve with-  
25 out pay, but the actual and necessary expenses of members  
26 and ex officio members may be paid if the commission so orders  
27 and if the commission has funds available for such purpose.

28 Sec. 54. Section three hundred fifty-seven A point one  
29 (357A.1), subsection seven (7), Code 1975, is amended to read  
30 as follows:

31 7. "~~Council~~ Commission" means the ~~Iowa-natural-resources~~  
32 ~~council~~ water quality commission of the department of  
33 environmental quality.

34 Sec. 55. Section three hundred fifty-seven A point three  
35 (357A.3), subsection two (2), Code 1975, is amended to read

1 as follows:

2 2. Be transmitted, together with a copy of the original  
3 petition, to the ~~county~~ commission.

4 Sec. 56. Section three hundred fifty-seven A point five  
5 (357A.5), Code 1975, is amended to read as follows:

6 357A.5 WHO MAY BE HEARD. At the hearing on the petition,  
7 any owner or occupant of land within the boundaries of the  
8 area described in the petition may appear, in person or by  
9 his designated representative, and any representative of the  
10 ~~county~~ commission may also appear, in favor of or in  
11 opposition to the incorporation and organization of the  
12 proposed district. Such appearances may also be filed in  
13 writing prior to the time set for the hearing.

14 Sec. 57. Section three hundred fifty-seven A point eleven  
15 (357A.11), subsection two (2), Code 1975, is amended to read  
16 as follows:

17 2. Maintain at its office a record of the district's  
18 proceedings, rules and regulations, and any decisions and  
19 orders made pursuant to the provisions of this chapter, and  
20 furnish copies thereof to the supervisors or the ~~county~~  
21 commission upon request.

22 Sec. 58. Section three hundred fifty-seven A point twelve  
23 (357A.12), Code 1975, is amended to read as follows:

24 357A.12 PLANS AND SPECIFICATIONS. As soon as reasonably  
25 possible after incorporation of a district, the board shall  
26 file with the supervisors and the ~~county~~ commission copies  
27 of the plans and specifications for, and estimates of the  
28 cost of, any improvements authorized by this chapter which  
29 the board proposes to construct or acquire. The board shall  
30 determine a reasonable fee which each member shall pay for  
31 the privilege of utilizing the district's facilities which  
32 shall be known as a benefit unit. Benefit units may be classi-  
33 fied. The board, by publication in a newspaper of general  
34 circulation in the district, shall generally describe the  
35 planned improvements, the area to be served and the fee members

1 will be required to pay for each service connected to the  
2 water system.

3 Sec. 59. Section three hundred fifty-seven A point nine-  
4 teen (357A.19), Code 1975, is amended to read as follows:

5 357A.19 NOT EXLMPT FROM OTHER REQUIREMENTS. Nothing in  
6 this chapter shall be construed to exempt any district from  
7 the requirements of any other statute, whether enacted prior  
8 to or subsequent to July 1, 1970, under which the district  
9 is required to obtain the permission or approval of, or to  
10 notify, the ~~eeeneit~~ commission, the Iowa commerce commission,  
11 or any other agency of this state or of any of its political  
12 subdivisions prior to proceeding with construction,  
13 acquisition, operation, enlargement, extension, or altera-  
14 tion of any works or facilities which the district is  
15 authorized to undertake pursuant to this chapter.

16 Sec. 60. Section three hundred fifty-eight point nine  
17 (358.9), unnumbered paragraph three (3), Code 1975, is amended  
18 to read as follows:

19 In cases where the state of Iowa owns at least four hun-  
20 dred acres of land contiguous to lakes within said district,  
21 then and only then the ~~Iowa-natural-resources-counciit~~ water  
22 quality commission of the department of environmental quality  
23 shall appoint two members of said board of trustees in addition  
24 to the three members hereinbefore provided in this section.  
25 The additional two members shall be qualified as follows:  
26 They shall be United States citizens, not less than eighteen  
27 years of age, and shall be property owners within said  
28 district. In such cases the two additional appointive members  
29 shall have equal vote and authority with other members of  
30 trustees and shall hold office at the pleasure of the ~~Iowa~~  
31 ~~natural-resources-counciit~~ water quality commission of the  
32 department of environmental quality.

33 Sec. 61. Section three hundred fifty-eight A point twenty-  
34 four (358A.24), Code 1975, is amended to read as follows:

35 358A.24 CONFLICT WITH OTHER REGULATIONS. Wherever the

1 regulations made under authority of this chapter require a  
2 greater width or size of yards, courts or other open spaces,  
3 or require a lower height of building or a less number of  
4 stories, or require a greater percentage of lot to be left  
5 unoccupied, or impose other higher standards than are required  
6 in any other statute or local ordinance or regulation, the  
7 provisions of the regulations made under authority of this  
8 chapter shall govern. Wherever the provisions of any other  
9 statute or local ordinance or regulation require a greater  
10 width or size of yards, courts or other open spaces, or require  
11 a lower height of building or a less number of stories, or  
12 require a greater percentage of lot to be left unoccupied,  
13 or impose other higher standards than are required by the  
14 regulations made under authority of this chapter, the provi-  
15 sions of such statute or local ordinance or regulation shall  
16 govern. Wherever any regulation proposed or made under author-  
17 ity of this chapter relates to any structure, building, dam,  
18 obstruction, deposit or excavation in or on the flood plains  
19 of any river or stream, prior approval of the ~~Iewa-natural~~  
20 ~~resources-council~~ water quality commission of the depart-  
21 ment of environmental quality shall be required to estab-  
22 lish, amend, supplement, change, or modify such regulation  
23 or to grant any variation or exception therefrom.

24 Sec. 62. Section four hundred fourteen point twenty-one  
25 (414.21), Code 1975, is amended to read as follows:

26 414.21 CONFLICTING RULES, ORDINANCES, AND STATUTES.

27 Wherever the regulations made under authority of this chap-  
28 ter require a greater width or size of yards, courts or other  
29 open spaces, or require a lower height of building or less  
30 number of stories, or require a greater percentage of lot  
31 to be left unoccupied, or impose other higher standards than  
32 are required in any other statute or local ordinance or  
33 regulation, the provisions of the regulations made under  
34 authority of this chapter shall govern. Wherever the  
35 provisions of any other statute or local ordinance or

1 regulation require a greater width or size of yards, courts  
2 or other open spaces, or require a lower height of building  
3 or a less number of stories, or require a greater percentage  
4 of lot to be left unoccupied, or impose other higher standards  
5 than are required by the regulations made under authority  
6 of this chapter, the provisions of such statute or local  
7 ordinance or regulation shall govern. Wherever any regulation  
8 proposed or made under authority of this chapter relates to  
9 any structure, building, dam, obstruction, deposit or  
10 excavation in or on the flood plains of any river or stream,  
11 ~~prior approval of the Iowa-natural-resources-council~~ water  
12 quality commission of the department of environmental quality  
13 shall be required to establish, amend, supplement, change  
14 or modify such regulation or to grant any variation or  
15 exception therefrom.

16 Sec. 63. Section four hundred fifty-five point eighteen  
17 (455.18), unnumbered paragraph two (2), Code 1975, is amended  
18 to read as follows:

19 Where the proposed district contemplates as its object  
20 flood control or soil conservance the engineer shall include  
21 in his report data describing any soil conservance or flood  
22 control improvements, the nature thereof, and such other addi-  
23 tional data as shall be prescribed by the ~~Iowa-natural~~  
24 ~~resources-council~~ water quality commission of the depart-  
25 ment of environmental quality.

26 Sec. 64. Section four hundred fifty-five B point four  
27 (455B.4), subsection four (4), Code 1975, is amended to read  
28 as follows:

29 4. The chemical technology commission shall consist of  
30 the secretary of agriculture, the commissioner of public  
31 health, ~~the-director-of-the-Iowa-natural-resources-council;~~  
32 the chairman of the state soil conservation committee, the  
33 chief executive of the league of Iowa municipalities, the  
34 state conservation director, and the dean, college of agri-  
35 culture of Iowa State University of science and technology,

1 or their designees, a representative of a firm in Iowa actively  
2 engaged in the manufacture or formulation of agricultural  
3 chemicals, and a farmer experienced in the application of  
4 agricultural chemicals to be appointed by the governor with  
5 the consent of two-thirds of the senate. The members appointed  
6 by the governor shall serve four-year terms, except that of  
7 the membership of the initial commission, the members appointed  
8 by the governor shall be the appointed members of the chemical  
9 technology review board abolished by this chapter, whose terms  
10 expired on the thirtieth of June, 1974. The terms of these  
11 two members shall expire on the thirtieth of June, 1974.

12 Sec. 65. Section four hundred sixty-seven A point three  
13 (467A.3), subsection fifteen (15), Code 1975, is amended to  
14 read as follows:

15 15. "~~Council~~ Commission" means the ~~Iowa-natural-resources~~  
16 ~~council~~ water quality commission of the department of  
17 environmental quality.

18 Sec. 66. Section four hundred sixty-seven A point four  
19 (467A.4), subsections one (1) and three (3), Code 1975, are  
20 amended to read as follows:

21 1. There is hereby established, to serve as an agency  
22 of the state and to perform the functions conferred upon it  
23 in this chapter, the department of soil conservation. The  
24 department shall be administered in accordance with the  
25 policies of the state soil conservation committee, which shall  
26 consist of a chairman and twelve members. The following shall  
27 serve as ex officio nonvoting members of the committee:  
28 The director of the state agricultural extension service,  
29 or his designee, the secretary of agriculture, or his designee,  
30 the director of the state conservation commission or his  
31 designee, and the director of the ~~Iowa-natural-resources~~  
32 ~~council~~ department of environmental quality or his desig-  
33 nee. Eight voting members shall be appointed by the governor  
34 and confirmed by the senate. Six of the appointive members  
35 shall be persons engaged in actual farming operations, one

1 of whom shall be a resident of each of the six conservancy  
2 districts established by section #67D.3, and no more than  
3 one of whom shall be a resident of any one county. The seventh  
4 and eighth appointive members shall be chosen by the governor  
5 from the state at large with one appointed to be a represen-  
6 tative of cities and one appointed to be a representative  
7 of the mining industry. The committee may invite the secretary  
8 of agriculture of the United States to appoint one person  
9 to serve with the above-mentioned members, and the president  
10 of the Iowa county engineers association may designate a  
11 member of the association to serve in the same manner, but  
12 these persons shall have no vote and shall serve in an advisory  
13 capacity only. ~~The director of the department of environmental~~  
14 ~~quality shall be an ex-officio nonvoting member.~~ The committee  
15 shall adopt a seal, which seal shall be judicially noticed,  
16 and may perform such acts, hold such public hearings, and  
17 promulgate such rules as provided in chapter 17A as may be  
18 necessary for the execution of its functions under this  
19 chapter.

20 3. The committee shall designate its chairman, and may,  
21 from time to time, change such designation. The director  
22 of the state agricultural extension service shall hold office  
23 so long as he shall retain the office by virtue of which he  
24 shall be serving on the committee. The members appointed  
25 by the governor shall serve for a period of six years. Members  
26 shall be appointed in each odd-numbered year to succeed members  
27 whose terms expire on June 30 of that year. Appointments  
28 may be made at such other times and for such other periods  
29 as are necessary to fill vacancies on the committee, and any  
30 appointment so made while the general assembly is not in ses-  
31 sion shall be subject to confirmation by the senate at the  
32 next session of the general assembly thereafter. No members  
33 shall be appointed to serve more than two complete six-year  
34 terms. Members designated to represent the secretary of agri-  
35 culture, director of the state conservation commission, or

1 the director of the ~~Iowa-natural-resources-council~~ depart-  
2 ment of environmental quality shall serve at the pleasure  
3 of the officer making such designation. A majority of the  
4 voting members of the committee shall constitute a quorum,  
5 and the concurrence of a majority of the voting members of  
6 the committee in any matter within their duties shall be  
7 required for its determination. The chairman and members  
8 of the committee, not otherwise in the employ of the state,  
9 or any political subdivision, shall receive forty dollars  
10 per diem as compensation for their services in the discharge  
11 of their duties as members of the committee. The committee  
12 shall determine the number of days for which any committee  
13 member may draw per diem compensation, but the total number  
14 of days for which per diem compensation is allowed for the  
15 entire committee shall not exceed four hundred days per year.  
16 They shall also be entitled to expenses, including traveling  
17 expenses, necessarily incurred in the discharge of their  
18 duties as members of such committee. The per diem and expenses  
19 paid to the committee members shall be paid from funds  
20 appropriated to the committee. The committee shall provide  
21 for the execution of surety bonds for all employees and  
22 officers who shall be entrusted with funds or property, shall  
23 provide for the keeping of a full and accurate record of all  
24 proceedings and of all resolutions, regulations, and orders  
25 issued or adopted, and shall provide for an annual audit of  
26 the accounts of receipts and disbursements.

27 Sec. 67. Section four hundred sixty-seven A point seven  
28 (467A.7), subsections three (3) and seven (7), Code 1975,  
29 are amended to read as follows:

30 3. To carry out preventive and control measures within  
31 the district, including, but not limited to, crop rotations,  
32 engineering operations, methods of cultivation, the growing  
33 of vegetation, changes in use of land, and the measures listed  
34 in section 467A.2, on lands owned or controlled by this state  
35 or any of its agencies, with the consent and co-operation

1 of the agency administering and having jurisdiction thereof,  
2 and on any other lands within the district, upon obtaining  
3 the consent of the owner or occupier of such lands or the  
4 necessary rights or interests in such lands. Any approval  
5 or permits from the ~~county~~ commission required under other  
6 provisions of law shall be obtained by the district prior  
7 to initiation of any construction activity.

8 7. To construct, improve, and maintain such structures  
9 as may be necessary or convenient for the performance of any  
10 of the operations authorized in this chapter. Any approval  
11 or permits from the ~~county~~ commission required under other  
12 provisions of law shall be obtained by the district prior  
13 to initiation of any construction activity.

14 Sec. 68. Section four hundred sixty-seven C point five  
15 (467C.5), Code 1975, is amended to read as follows:

16 467C.5 APPROVAL OF COMMISSIONERS. No district shall be  
17 established by any board of supervisors under this chapter  
18 unless the organization of such district is approved by the  
19 commissioners of any soil conservation district established  
20 under the provisions of chapter 467A and which is included  
21 all or in part within such district, nor shall any such dis-  
22 trict be established without the approval of the state con-  
23 servation commission and the ~~Iowa-natural-resources-coun-~~  
24 er water quality commission of the department of environ-  
25 mental quality.

26 Sec. 69. Section four hundred sixty-seven D point two  
27 (467D.2), subsection three (3), Code 1975, is amended to read  
28 as follows:

29 3. "~~County~~ Commission" means the ~~Iowa-natural-resources~~  
30 er water quality commission of the department of  
31 environmental quality.

32 Sec. 70. Section four hundred sixty-seven D point six  
33 (467D.6), subsections one (1) and eleven (11), Code 1975,  
34 are amended to read as follows:

35 1. Exercise such supervision over the water resources

1 of the conservancy district, including water in any basin,  
2 watercourse, or other body of water in the conservancy  
3 district, and have authority to promulgate and repeal, with  
4 approval of the department, and enforce such rules, except  
5 those rules relating to water resources under the authority  
6 of the ~~council~~-and-the-iowa-water-quality commission, as  
7 necessary to achieve the objectives of this chapter as set  
8 forth in section 467D.1.

9 11. Maintain at its office a record of all the conservancy  
10 district's proceedings, rules and orders, and furnish copies  
11 thereof to the department and the ~~council~~ commission upon  
12 request.

13 Sec. 71. Section four hundred sixty-seven D point six-  
14 teen (467D.16), unnumbered paragraph one (1), Code 1975, is  
15 amended to read as follows:

16 The board shall prepare a plan for accomplishment of the  
17 objectives of this chapter within the conservancy district.  
18 For this purpose the board may request and shall obtain from  
19 any state agency or political subdivision information which  
20 the agency or subdivision may have already collected which  
21 is pertinent to preparation of the plan, and may conduct such  
22 hearings as it deems necessary. The plan shall establish  
23 an order of priorities for carrying out projects necessary  
24 to accomplish the objectives of this chapter, shall conform  
25 as nearly as practicable to the comprehensive state-wide water  
26 resources plan established by the ~~council~~ commission pursuant  
27 to section 455A.17 and shall reflect the following general  
28 policies:

29 Sec. 72. Section four hundred sixty-seven D point seven-  
30 teen (467D.17), Code 1975, is amended to read as follows:

31 467D.17 PLAN PRESENTED TO DEPARTMENT AND COUNCIL. The  
32 board shall tentatively adopt the plan by resolution and shall  
33 present the plan to the department and the ~~council~~ commis-  
34 sion for review. The ~~council~~ commission shall within ninety  
35 days review the plan as presented and make such recom-

1 mendations as, in its discretion, it deems necessary to bring  
2 the conservancy district's plan into conformity with the com-  
3 prehensive state-wide water resources plan established by  
4 the ~~council~~ commission pursuant to section 455A.17. The  
5 department shall review the plan as presented and, with such  
6 amendments as are necessary to bring the plan into conformity  
7 with the state-wide water resources plan, give final approval  
8 within one hundred twenty days.

9 Sec. 73. Section four hundred sixty-seven D point nine-  
10 teen (467D.19), Code 1975, is amended to read as follows:

11 467D.19 IMPLEMENTATION. After final approval of the plan,  
12 the board shall begin to implement the plan as expeditiously  
13 as possible, within the limitations of available appropriations  
14 and other financial resources. When implementation of the  
15 plan involves construction or improvement of any internal  
16 improvement by the conservancy district, the board may order  
17 the preparation of detailed plans and specifications, and  
18 a refined cost estimate. Upon completion of such plans,  
19 specifications and cost estimate to their satisfaction, the  
20 board shall adopt the same, subject to the approval of the  
21 department, and shall let the contract or contracts therefor  
22 in accordance with section 457D.20. Any approval or permits  
23 from the ~~council~~ commission required under other provisions  
24 of law shall be obtained by the conservancy district prior  
25 to initiation of any construction activity.

26 Sec. 74. Chapter four hundred sixty-nine (469), Code 1975,  
27 is amended by adding the following new section:

28 NEW SECTION. DEFINITIONS. As used in this chapter:

29 1. "Department" means the department of environmental  
30 quality.

31 2. "Commission" means the water quality commission of  
32 the department.

33 Sec. 75. Section four hundred sixty-nine point one (469.1),  
34 Code 1975, is amended to read as follows:

35 469.1 PROHIBITION--PERMIT. No dam shall be constructed,

1 maintained, or operated in this state in any navigable or  
 2 meandered stream for any purpose, or in any other stream for  
 3 manufacturing or power purposes, nor shall any water be taken  
 4 from such streams for industrial purposes, unless a permit  
 5 has been granted by the ~~Iowa-natural-resources-council~~ com-  
 6 mission to the person, firm, corporation, or municipality  
 7 constructing, maintaining, or operating the same.

8 Sec. 76. Section four hundred sixty-nine point two (469.2),  
 9 unnumbered paragraph one (1) and subsection six (6), Code  
 10 1975, are amended to read as follows:

11 Any person, firm, corporation, or municipality making  
 12 application for a permit to construct, maintain, or operate  
 13 a dam in any of the waters, including canals, raceways, and  
 14 other constructions necessary or useful in connection with  
 15 the development and utilization of the water or water power,  
 16 shall file with the ~~Iowa-natural-resources-council~~ commis-  
 17 sion a written application, which shall contain the following  
 18 information:

19 6. Such additional information as may be required by the  
 20 ~~Iowa-natural-resources-council~~ commission.

21 Sec. 77. Section four hundred sixty-nine point three  
 22 (469.3), Code 1975, is amended to read as follows:

23 469.3 NOTICE OF HEARING. When any application for a per-  
 24 mit to construct, maintain, or operate a dam from and after  
 25 the passage of this chapter is received, the ~~Iowa-natural~~  
 26 ~~resources-council~~ commission shall fix a time for hearing,  
 27 and it shall give notice of the time and place of such hearing  
 28 by publication once each week for two successive weeks in  
 29 at least one newspaper in each county in which riparian lands  
 30 will be affected by the dam.

31 Sec. 78. Section four hundred sixty-nine point four  
 32 (469.4), Code 1975, is amended to read as follows:

33 469.4 HEARING. At the time fixed for such hearing or  
 34 at any adjournment thereof, the ~~council~~ commission shall take  
 35 evidence offered by the applicant and any other person, either

1 in support of or in opposition to the proposed construction.

2 Sec. 79. Section four hundred sixty-nine point five  
3 (469.5), Code 1975, is amended to read as follows:

4 469.5 WHEN PERMIT GRANTED. If it shall appear to the  
5 ~~ecouneit~~ commission that the construction, operation, or  
6 maintenance of the dam will not materially obstruct existing  
7 navigation, or materially affect other public rights, will  
8 not endanger life or public health, and any water taken from  
9 the stream in connection with the project, excepting water  
10 taken by a municipality for distribution in its water mains,  
11 is returned thereto at the nearest practicable place without  
12 being materially diminished in quantity or polluted or rendered  
13 deleterious to fish life, it shall grant the permit, upon  
14 such terms and conditions as it may prescribe.

15 Sec. 80. Section four hundred sixty-nine point nine  
16 (469.9), unnumbered paragraph one (1), Code 1975, is amended  
17 to read as follows:

18 Every person, firm, or corporation, excepting a  
19 municipality, to whom a permit is granted to construct or  
20 to maintain and operate a dam already constructed in or across  
21 any stream for the purpose herein specified, shall pay to  
22 the ~~Iowa-natural-resources-ecouneit~~ commission a permit fee  
23 of one hundred dollars and shall pay an annual inspection  
24 and license fee, to be fixed by the ~~Iowa-natural-resources~~  
25 ~~ecouneit~~ commission, on or before the first day of January,  
26 1925, and annually thereafter, but in no case shall the annual  
27 inspection and license fee be less than twenty-five dollars.  
28 All fees shall be paid into the general fund of the state  
29 treasury.

30 Sec. 81. Section four hundred sixty-nine point ten  
31 (469.10), Code 1975, is amended to read as follows:

32 469.10 CONSTRUCTION AND OPERATION. The ~~Iowa-natural~~  
33 ~~resources-ecouneit~~ commission shall investigate methods of  
34 construction, reconstruction, operation, maintenance, and  
35 equipment of dams, so as to determine the best methods to

1 conserve and protect as far as possible all public and riparian  
 2 rights in the waters of the state and so as to protect the  
 3 life, health, and property of the general public; and the  
 4 method of construction, operation, maintenance, and equipment  
 5 of any and all dams of any character or for any purpose in  
 6 such waters shall be subject to the approval of the ~~Iowa~~  
 7 ~~natural-resources-council~~ commission.

8 Sec. 82. Section four hundred sixty-nine point eleven  
 9 (469.11), Code 1975, is amended to read as follows:

10 469.11 ACCESS TO WORKS. ~~Such-council-or-any-member,~~  
 11 ~~agent,-or-employee-thereof~~ The commission shall at all times  
 12 be accorded full access to all parts of any dam and its  
 13 appurtenances being constructed, operated, or maintained in  
 14 such waters.

15 Sec. 83. Section four hundred sixty-nine point twelve  
 16 (469.12), Code 1975, is amended to read as follows:

17 469.12 DUTY TO ENFORCE STATUTES. It shall be the duty  
 18 of the ~~council~~ commission to require that all existing statutes  
 19 of the state, including the provisions of this chapter, with  
 20 reference to the construction of dams, shall be enforced.

21 Sec. 84. Section four hundred sixty-nine point twenty-  
 22 six (469.26), Code 1975, is amended to read as follows:

23 469.26 REVOCATION OR FORFEITURE OF PERMIT. If the person  
 24 to whom a permit is issued under the provisions of this chap-  
 25 ter does not begin the construction or the improvement of  
 26 the dam or raceway within one year from the date of the  
 27 granting of the permit, his permit may be revoked by the ~~Iowa~~  
 28 ~~natural-resources-council~~ commission, and if any permit holder  
 29 does not finish and have in operation the plant for which  
 30 the dam is constructed within three years after the granting  
 31 of the permit, unless for good cause shown the ~~council~~ com-  
 32 mission has extended the time for completion, such permit  
 33 shall be forfeited.

34 Sec. 85. Section four hundred sixty-nine point twenty-  
 35 nine (469.29), Code 1975, is amended to read as follows:

1        469.29 PERMITS FOR EXISTING DAMS. All licenses and per-  
2 mits issued by the state executive council prior to April  
3 17, 1949, are hereby declared to be in full force and effect  
4 and all of the powers of administration relating to licenses  
5 or permits heretofore issued are hereby vested in the Iowa  
6 ~~natural-resources-council~~ commission.

7        Sec. 86. Sections four hundred fifty-five A point four  
8 (455A.4), four hundred fifty-five A point five (455A.5), four  
9 hundred fifty-five A point six (455A.6), four hundred fifty-  
10 five A point seven (455A.7), four hundred fifty-five A point  
11 eight (455A.8), four hundred fifty-five A point thirteen  
12 (455A.13), four hundred fifty-five A point thirty-four  
13 (455A.34), four hundred sixty-nine point six (469.6), four  
14 hundred sixty-nine point seven (469.7), and four hundred  
15 sixty-nine point eight (469.8), Code 1975, are repealed.

16        Sec. 87. Any rule adopted, permit or order issued, or  
17 approval given under chapters eighty-four (84), one hundred  
18 eight (108), one hundred nine (109), one hundred eleven (111),  
19 one hundred twelve (112), three hundred fifty-seven A (357A),  
20 three hundred fifty-eight A (358A), four hundred fourteen  
21 (414), four hundred fifty-five (455), four hundred sixty-seven  
22 A (467A), four hundred sixty-seven C (467C), four hundred  
23 sixty-seven D (467D), or four hundred sixty-nine (469), of  
24 the Code, before the effective date of this Act, by the Iowa  
25 natural resources council shall remain effective until modified  
26 or rescinded by action of the department of environmental  
27 quality or the state geologist as provided in this Act un-  
28 less such order, rule, permit or approval is inconsistent  
29 or contrary to the provisions of this Act.

30        Sec. 88. The effective date of this Act shall be January  
31 1, 1977, except the governor may transfer, before January  
32 1, 1977, by executive order, the powers, functions, records,  
33 equipment, funds, other property, and personnel provided in  
34 this Act to the department of environmental quality or the  
35 office of state geologist as applicable.

1 The governor may also provide, by executive order before  
2 January 1, 1977, after he has determined that the Iowa natural  
3 resources council abolished by this Act no longer has any  
4 significant functions to perform, that the offices of the  
5 members thereof be abolished. Thereafter, such offices shall  
6 stand abolished and the members thereof shall not be entitled  
7 to any further compensation or expenses.

8 EXPLANATION

9 This bill abolishes the Iowa natural resources council  
10 and transfers its powers and duties under chapters four hundred  
11 fifty-five A (455A) and four hundred sixty-nine (469) of the  
12 Code to the department of environmental quality and its powers  
13 and duties under chapter eighty-four (84) of the Code to the  
14 office of state geologist.

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21 SENATE FILE 1211  
22 FISCAL NOTE

23 Date prepared: February 27, 1976  
24 Requested by: Senator Gallagher  
25 Prepared in regard to Senate File 1211, An Act to transfer  
26 the powers and duties of the Iowa natural resources council  
27 to the department of environmental quality and the office of  
28 state geologist and to abolish the Iowa national resources  
29 council.

30 Following is the fiscal effect in dollars of the legislative  
31 proposal as required by Joint Rule 16.

32 It is estimated that Senate File 1211 would have no significant  
33 fiscal effect as the cost to the Department of Environmental  
34 Quality and the State Geologist would be the same as current  
35 costs under the Natural Resources Council.

36 FILED, MARCH 1, 1976

BY GERRY D. RANKIN  
LEGISLATIVE FISCAL DIRECTOR