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FILED MAR 06 1992

SENATE FILE 2305
BY COMMITTEE ON ENVIRONMENT
AND ENERGY UTILITIES
approved (p. 244)
(SUCCESSOR TO SSB 2202)

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

A BILL FOR

1 An Act relating to the establishment of an environmental trust
2 fund and providing for the imposition and deposit of fees.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2305

1 Section 1. Section 9B.1, subsection 7, Code Supplement
2 1991, is amended to read as follows:

3 7. A person who knowingly and willfully violates a
4 provision of this section is subject to a civil penalty in an
5 amount not to exceed ten thousand dollars. Moneys collected
6 from the penalties imposed shall be deposited in the ~~waste~~
7 ~~volume-reduction-and-recycling~~ hazardous substance remedial
8 fund established pursuant to section ~~455B.15~~ 455B.423.

9 Sec. 2. Section 455B.103A, subsection 4, Code Supplement
10 1991, is amended to read as follows:

11 4. An applicant to be covered under a general permit shall
12 pay a permit fee, as established by rule of the commission,
13 which is sufficient in the aggregate to defray the costs of
14 the permit program. Moneys collected shall be remitted to the
15 department treasurer of state and deposited in the water
16 quality account of the environmental trust fund established
17 pursuant to section 455B.104.

18 Sec. 3. NEW SECTION. 455B.104 ENVIRONMENTAL TRUST FUND.

19 1. An environmental trust fund is created in the state
20 treasury, under the control of the department. All moneys
21 collected from fees imposed under section 455B.105 and section
22 455B.104, subsection 2, and other moneys designated for
23 permit, monitoring, inspection, and enforcement activities
24 related to air quality, water supply, water quality, and solid
25 waste shall be remitted to the treasurer of state, credited to
26 the fund, and used solely for the purposes established in this
27 section. Notwithstanding section 8.33, any unexpended balance
28 in the environmental trust fund at the end of the fiscal year
29 shall be retained in the fund and the respective accounts
30 within the fund. Notwithstanding section 453.7, subsection 2,
31 interest or earnings on investments or time deposits of the
32 moneys in the environmental trust fund shall be credited to
33 the fund or the respective accounts within the fund. All
34 moneys deposited in or credited to the fund shall be used for
35 the purposes established in section 455B.133 and for permit,

1 monitoring, inspection, and enforcement activities related to
2 air quality, water supply, water quality, and solid waste.

3 2. The following accounts are created within the environ-
4 mental trust fund.

5 a. The air quality account.

6 b. The water quality account.

7 c. The water supply account.

8 d. The solid waste account.

9 Moneys credited to the fund under section 455B.133,
10 subsection 8, and section 455B.133A shall be deposited in the
11 air quality account. Moneys credited to the fund under
12 section 455B.103A, subsection 4, section 455B.172, subsection
13 5, section 455B.173, subsection 3 relating to disposal
14 systems, and section 455B.278, with the exception of water use
15 and allocation permit fees, shall be deposited in the water
16 quality account. Moneys credited to the fund under section
17 455B.173, subsection 3, relating to water supplies, and
18 sections 455B.190A, 455B.221, and 455B.278 relating to water
19 use and allocation shall be deposited in the water supply
20 account. Moneys credited to the fund under section 455B.304,
21 section 455E.11, subsection 2, paragraph "a", subparagraph
22 (8), subparagraph subdivision (b), subparagraph subdivision
23 parts (ii) and (iii), and section 455E.11, subsection 2,
24 paragraph "a", subparagraph (11), subparagraph subdivision
25 (a), subparagraph subdivision part (ii), shall be deposited in
26 the solid waste account. Moneys in the air quality account
27 shall be used for the purposes established in section
28 455B.133, and for permit, monitoring, inspection, and
29 enforcement activities of the air quality program. Moneys in
30 each of the other accounts shall be used for permit,
31 monitoring, inspection, and enforcement activities in each
32 respective program. The purposes for which money in any of
33 the accounts may be used shall include payment of additional
34 full-time equivalent positions.

35 3. The commission shall submit an environmental trust fund

1 report, annually, by December 31, to the governor and the
2 general assembly which shall include all of the following:

3 a. A statement of the status of the fund.

4 b. A detailed description of the status and accomplishment
5 of programs funded through the fund.

6 c. Recommendations for the uses of the moneys in the fund
7 in the subsequent fiscal year.

8 d. A summary of the status of rules regarding permit fees
9 including a summary of rules proposed, rules proposed and not
10 yet adopted, and rules adopted.

11 Sec. 4. Section 455B.105, subsection 11, Code Supplement
12 1991, is amended to read as follows:

13 11. a. Adopt, by rule, procedures and forms necessary to
14 implement the provisions of this chapter relating to permits,
15 conditional permits, and general permits. The commission may
16 shall also adopt, by rule, a schedule of fees for permit, and
17 conditional permit, and general permit applications and a
18 schedule of fees which may be periodically assessed for
19 administration of permits, and conditional permits, and
20 general permits. In determining the fee schedules, the
21 commission shall consider:

22 (1) The state's reasonable cost of reviewing applications,
23 issuing permits, and conditional permits, and general permits,
24 and checking compliance with the terms of the permits.

25 (2) The relative benefits to the applicant and to the
26 public of permit, and conditional permit, and general permit
27 review, issuance, and monitoring compliance.

28 ~~It is the intention of the legislature that permit fees~~
29 ~~shall not cover any costs connected with correcting violation~~
30 ~~of the terms of any permit and shall not impose unreasonable~~
31 ~~costs on any municipality:~~

32 (3) The typical costs of the particular types of projects
33 or activities for which permits, or conditional permits, or
34 general permits are required, ~~provided that in no~~
35 ~~circumstances shall fees be in excess of the actual costs to~~

1 the-department.

2 Permit fee revenues shall not exceed the cost of
3 administering the permit programs, including issuance,
4 monitoring, and enforcement activities.

5 b. The fees collected by the department under this
6 subsection shall be remitted to the treasurer of state and
7 credited to the ~~general-fund-of-the-state~~ environmental trust
8 fund established pursuant to section 455B.104.

9 Sec. 5. Section 455B.109, subsection 4, Code 1991, is
10 amended to read as follows:

11 4. All civil penalties assessed by the department and
12 interest on the penalties shall be deposited in the ~~general~~
13 ~~fund-of-the-state~~ hazardous substance remedial fund created
14 pursuant to section 455B.423.

15 Sec. 6. Section 455B.133, subsection 8, Code Supplement
16 1991, is amended to read as follows:

17 8. Adopt rules consistent with the federal Clean Air Act
18 Amendments of 1990, Pub. L. No. 101-549, which require the
19 owner or operator of an air contaminant source to obtain an
20 operating permit prior to operation of the source. The rules
21 shall specify the information required to be submitted with
22 the application for a permit and the conditions under which a
23 permit may be granted, modified, suspended, terminated,
24 revoked, reissued, or denied. The commission ~~may~~ shall impose
25 fees, including fees upon regulated pollutants emitted from an
26 air contaminant source, in an amount sufficient to cover all
27 reasonable costs, direct and indirect, required to develop and
28 administer the permit program in conformance with the federal
29 Clean Air Act Amendments of 1990, Pub. L. No. 101-549. In the
30 case of affected sources and affected units regulated under
31 Title IV of the federal Clean Air Act Amendments of 1990, Pub.
32 L. No. 101-549, such fees shall be collected only as provided
33 in and upon submission of an application pursuant to section
34 408 of the federal Act. The fees collected pursuant to this
35 subsection shall be deposited in the air contaminant-source

1 quality account of the environmental trust fund created
2 pursuant to section 455B.133B, and shall be utilized solely to
3 cover all reasonable costs required to develop and administer
4 the programs required by Title V of the federal Clean Air Act
5 Amendments of 1990, Pub. L. No. 101-549, including the permit
6 program pursuant to section 502 of the federal Act and the
7 small business stationary source technical and environmental
8 assistance program pursuant to section 507 of the federal Act.
9 Sec. 7. Section 455B.133A, subsection 2, Code Supplement
10 1991, is amended to read as follows:

11 2. Moneys collected shall be deposited in the air
12 contaminant-source quality account of the environmental trust
13 fund created pursuant to section 455B.133B. Notwithstanding
14 section 8.33, any unexpended balance remaining in the fund,
15 which was generated pursuant to this section, shall remain in
16 the fund for the purposes designated under section 455B.133,
17 subsection 8. Notwithstanding section 453.7, any interest and
18 earnings on investments from moneys in the fund account shall
19 be used for the purposes of the fund account.

20 Sec. 8. Section 455B.133B, subsection 1, Code Supplement
21 1991, is amended to read as follows:

22 1. An air contaminant-source quality account of the
23 environmental trust fund is created in section 455B.104 is
24 established in the office of the treasurer of state under the
25 control of the department. Moneys received from the fees
26 assessed pursuant to sections 455B.133A and 455B.133,
27 subsection 8, shall be deposited in the fund account. Moneys
28 collected pursuant to section 455B.133, subsection 8, shall be
29 used solely to defray the costs related to the permit,
30 monitoring, and inspection program, including the small
31 business stationary source technical and environmental
32 compliance assistance program required pursuant to the federal
33 Clean Air Act Amendments of 1990, sections 502 and 507, Pub.
34 L. No. 101-549. Notwithstanding section 8.33, any unexpended
35 balance in the fund account at the end of each fiscal year

1 shall be retained in the fund account. Notwithstanding
2 section 453.7, any interest and earnings on investments from
3 money in the fund account shall be credited to the fund
4 account.

5 Sec. 9. Section 455B.146, Code Supplement 1991, is amended
6 to read as follows:

7 455B.146 CIVIL ACTION FOR COMPLIANCE -- LOCAL PROGRAM
8 ACTIONS.

9 If any order, permit, or rule of the department is being
10 violated, the attorney general shall, at the request of the
11 department or the director, institute a civil action in any
12 district court for injunctive relief to prevent any further
13 violation of the order, permit, or rule, or for the assessment
14 of a civil penalty as determined by the court, not to exceed
15 ten thousand dollars per day for each day such violation
16 continues, or both such injunctive relief and civil penalty.
17 Moneys collected under this section shall be deposited in the
18 hazardous substance remedial fund established pursuant to
19 section 455B.423. Notwithstanding sections 331.302 and
20 331.307, a city or county which maintains air pollution
21 control programs authorized by certificate of acceptance under
22 this division may provide civil penalties consistent with the
23 amount established for such penalties under this division.

24 Sec. 10. Section 455B.172, subsection 5, unnumbered para-
25 graph 2, Code Supplement 1991, is amended to read as follows:

26 The department shall by rule adopt standards for the
27 commercial cleaning of private sewage disposal facilities,
28 including but not limited to septic tanks and pits used to
29 collect waste in livestock confinement structures, and for the
30 disposal of waste from the facilities. The standards shall
31 not be in conflict with the state building code. A person
32 shall not commercially clean such facilities or dispose of
33 waste from such facilities unless the person has been issued a
34 license by the department. The department ~~shall be~~ is
35 exclusively responsible for adopting the standards and issuing

1 licenses. However, county boards of health shall enforce the
2 standards and licensing requirements established by the
3 department. Application for the license shall be made in the
4 manner provided by the department. Licenses expire one year
5 from the date of issue unless revoked and may be renewed in
6 the manner provided by the department. The license or license
7 renewal fee is twenty-five dollars and shall be remitted to
8 the treasurer of state and credited to the water quality
9 account within the environmental trust fund established
10 pursuant to section 455B.104. A person violating this section
11 or the rules adopted pursuant to this section, is subject to a
12 civil penalty of not more than twenty-five dollars. Each day
13 that a violation continues constitutes a separate offense.
14 However, the total civil penalty shall not exceed five hundred
15 dollars per year. The penalty shall be assessed for a
16 violation occurring ten days following written notice of the
17 violation delivered to the person by the department or a
18 county board of health. Moneys collected by the department or
19 a county board of health from the imposition of civil
20 penalties shall be deposited in the ~~general-fund-of-the-state~~
21 hazardous substance remedial fund created in section 455B.423.

22 Sec. 11. Section 455B.173, subsection 3, unnumbered
23 paragraph 1, Code Supplement 1991, is amended to read as
24 follows:

25 Establish, modify, or repeal rules relating to the
26 location, construction, operation, and maintenance of disposal
27 systems and public water supply systems and specifying the
28 conditions under which the director shall issue, revoke,
29 suspend, modify, or deny permits for the operation,
30 installation, construction, addition to, or modification of
31 any disposal system or public water supply system, or for the
32 discharge of any pollutant, or for the disposal of water
33 wastes resulting from poultry and livestock operations. Rules
34 establishing permit fees shall be adopted by the commission,
35 pursuant to section 455B.105. Moneys collected shall be

1 remitted to the treasurer of state and credited to the
2 environmental trust fund established pursuant to section
3 455B.104. Moneys collected relating to public water supplies
4 shall be credited to the water supply account within the fund,
5 and moneys collected relating to disposal facilities shall be
6 credited to the water quality account within the fund. The
7 rules specifying the conditions under which the director shall
8 issue permits for the construction of an electric power
9 generating facility subject to chapter 476A shall provide for
10 issuing a conditional permit upon the submission of
11 engineering descriptions, flow diagrams, and schematics that
12 qualitatively and quantitatively identify effluent streams and
13 alternative disposal systems that will provide compliance with
14 effluent standards or limitations.

15 Sec. 12. Section 455B.190A, subsection 5, Code Supplement
16 1991, is amended by adding the following new paragraph:

17 NEW PARAGRAPH. c. Fees collected under paragraphs "a" and
18 "b" shall be deposited in the environmental trust fund created
19 pursuant to section 455B.104.

20 Sec. 13. Section 455B.191, Code 1991, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 7. All moneys collected under this
23 section shall be deposited in the hazardous substance remedial
24 fund created pursuant to section 455B.423.

25 Sec. 14. Section 455B.221, Code 1991, is amended to read
26 as follows:

27 455B.221 CERTIFICATION AND EXAMINATION FEES.

28 The director may charge a fee for certificates issued under
29 this part. The fee for the certificates and for renewal shall
30 be based on the costs of administering and enforcing this part
31 and paying the expenses of the department relating to
32 certification. The department shall be reimbursed for all
33 costs incurred. The director shall set a fee for the
34 examination which shall be based upon the annual cost of
35 administering the examinations. All fees collected shall be

1 remitted to the treasurer of state, ~~who shall deposit the~~
2 ~~funds in the general fund of the state. Funds shall be~~
3 ~~appropriated from the general fund to the department and~~
4 credited to the water supply account of the environmental
5 trust fund established pursuant to section 455B.104.

6 Sec. 15. Section 455B.278, subsection 1, Code 1991, is
7 amended to read as follows:

8 1. The commission shall adopt, modify, or repeal rules
9 establishing procedures by which permits required under this
10 part shall be issued, suspended, revoked, modified, or denied.
11 The rules shall include provisions for application,
12 establishment of permit fees, public notice and opportunity
13 for public hearing, and contested cases. Public notice of a
14 decision by the director to issue a permit shall be given in a
15 manner designed to inform persons who may be adversely
16 affected by the permitted project or activity. All permit
17 fees shall be remitted to the treasurer of state and credited
18 to the environmental trust fund established pursuant to
19 section 455B.104. Moneys collected relating to water use and
20 allocations shall be deposited in the water supply account,
21 and all other moneys collected shall be deposited in the water
22 quality account.

23 Sec. 16. Section 455B.279, subsection 2, Code 1991, is
24 amended to read as follows:

25 2. A person who violates a provision of this part or a
26 rule or order adopted or promulgated or the conditions of a
27 permit issued pursuant to this part is subject to a civil
28 penalty not to exceed five hundred dollars for each day that a
29 violation occurs. Moneys collected under this section shall
30 be deposited in the hazardous substance remedial fund created
31 pursuant to section 455B.423.

32 Sec. 17. Section 455B.304, Code 1991, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 16. The commission shall adopt rules
35 establishing permit fees for the construction and operation of

1 sanitary disposal projects. Moneys collected shall be
2 remitted to the treasurer of state and credited to the solid
3 waste account within the environmental trust fund established
4 pursuant to section 455B.104.

5 Sec. 18. Section 455B.304, subsections 11 and 12, Code
6 1991, are amended to read as follows:

7 11. By July 1, 1990, a sanitary landfill disposal project
8 operating with a permit shall have a trained, tested, and
9 certified operator. A certification program including
10 establishment of fees shall be devised or approved by rule of
11 the department. All moneys received under this subsection
12 shall be remitted to the treasurer of state and credited to
13 the solid waste account within the environmental trust fund
14 established pursuant to section 455B.104.

15 12. The commission shall adopt rules for the certification
16 of operators of solid waste incinerators including the
17 establishment of fees. The criteria for certification shall
18 include, but is not limited to, an operator's technical
19 competency and operation and maintenance of solid waste
20 incinerators. All moneys collected under this subsection
21 shall be remitted to the treasurer of state and credited to
22 the solid waste account within the environmental trust fund
23 established pursuant to section 455B.104.

24 Sec. 19. Section 455B.386, Code 1991, is amended to read
25 as follows:

26 455B.386 NOTIFICATION OF SPILLS -- PENALTY.

27 A person manufacturing, storing, handling, transporting, or
28 disposing of a hazardous substance shall notify the department
29 and the local police department or the office of the sheriff
30 of the affected county of the occurrence of a hazardous
31 condition as soon as possible but not later than six hours
32 after the onset of the hazardous condition or discovery of the
33 hazardous condition. A sheriff or police chief who has been
34 notified of a hazardous condition shall immediately notify the
35 department. The department, upon receiving notice of a

1 hazardous condition, shall immediately notify the operator of
2 any public water supply system or private water supply system
3 which may be affected by the hazardous condition. If
4 requested, a person shall submit within thirty days of the
5 department's request a written report of particulars of the
6 incident. A person violating this section is subject to a
7 civil penalty of not more than one thousand dollars. All
8 moneys collected under this section shall be deposited in the
9 hazardous substance remedial fund created pursuant to section
10 455B.423.

11 Sec. 20. Section 455B.417, subsection 3, Code 1991, is
12 amended to read as follows:

13 3. A person who violates a provision of this part or a
14 rule, permit, or order adopted or issued under this part is
15 subject to a civil penalty not to exceed ten thousand dollars
16 for each violation. Each day of violation constitutes a
17 separate violation. All moneys collected under this section
18 shall be deposited in the hazardous substance remedial fund
19 created pursuant to section 455B.423.

20 Sec. 21. Section 455B.423, subsection 2, Code Supplement
21 1991, is amended to read as follows:

22 2. The director may use the fund for any of the following
23 purposes:

24 a. Administrative services for the identification,
25 assessment and cleanup of hazardous waste or hazardous
26 substance disposal sites.

27 b. Payments to other state agencies for services
28 consistent with the management of hazardous waste or hazardous
29 substance disposal sites.

30 c. Emergency response activities as provided in part 4 of
31 this division.

32 d. Financing the nonfederal share of the cost of cleanup
33 and site rehabilitation activities as well as postclosure
34 operation and maintenance costs, pursuant to the federal
35 Comprehensive Environmental Response, Compensation and

1 Liability Act of 1980.

2 e. Financing the cost of cleanup and site rehabilitation
3 activities as well as postclosure operation and maintenance
4 costs of hazardous waste or hazardous substance disposal sites
5 that do not qualify for federal cost-sharing pursuant to the
6 federal Comprehensive Environmental Response, Compensation and
7 Liability Act of 1980.

8 f. Through agreements or contracts with other state
9 agencies, work with private industry to develop alternatives
10 to land disposal of hazardous waste or hazardous substances
11 including, but not limited to, resource recovery, recycling,
12 neutralization, and reduction.

13 g. Administration of the waste reduction assistance
14 program or other activities related to assisting Iowa business
15 and industry to reduce, recycle, or otherwise reclaim waste
16 materials generated or processed.

17 ~~However, at least seventy-five percent of the fund shall be~~
18 ~~used for the purposes stated in paragraphs "d" and "e".~~

19 At least fifty percent of the fund shall be used for the
20 purposes stated in paragraphs "d" and "e". Twenty percent, up
21 to a maximum of seventy-five thousand dollars, shall be used
22 for the purposes stated in paragraph "g". The remainder shall
23 be used for the purposes stated in paragraphs "a", "b", "c",
24 and "f".

25 Sec. 22. Section 455B.454, Code 1991, is amended to read
26 as follows:

27 455B.454 PENALTIES.

28 A person required to obtain a site license under this part
29 6 of division IV who constructs a facility without having
30 first obtained the license is subject to a civil penalty of
31 not more than ten thousand dollars for each violation or for
32 each day of continuing violation. Civil penalties collected
33 pursuant to this subsection shall be forwarded by the clerk of
34 court to the treasurer of state for deposit in the general
35 fund-of-the-state hazardous substance remedial fund created

1 pursuant to section 455B.423.

2 Sec. 23. Section 455B.466, Code 1991, is amended to read
3 as follows:

4 455B.466 CIVIL PENALTIES.

5 A person who violates a provision of this part is subject
6 to a civil penalty of not more than ten thousand dollars for
7 each violation and for each day of continuing violation.

8 Civil penalties collected pursuant to this section shall be
9 forwarded by the clerk of the district court to the treasurer
10 of state for deposit in the ~~general-fund-of-the-state~~
11 hazardous substance remedial fund created pursuant to section
12 455B.423.

13 Sec. 24. Section 455B.477, Code 1991, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 8. Penalties collected under this section
16 shall be deposited in the hazardous substance remedial fund
17 created pursuant to section 455B.423.

18 Sec. 25. Section 455B.477, subsection 7, Code 1991, is
19 amended to read as follows:

20 7. The ~~civil-penalties-or-other~~ damages or moneys
21 recovered by the state or the petroleum underground storage
22 tank fund in connection with a petroleum underground storage
23 tank under this part of this division or chapter 455G shall be
24 credited to the fund created in section 455G.3 and allocated
25 between fund accounts according to the fund budget. Any
26 federal moneys, including but not limited to federal
27 underground storage tank trust fund moneys, received by the
28 state or the department of natural resources in connection
29 with a release occurring on or after May 5, 1989, or received
30 generally for underground storage tank programs on or after
31 May 5, 1989, shall be credited to the fund created in section
32 455G.3 and allocated between fund accounts according to the
33 fund budget, unless such use would be contrary to federal law.
34 The department shall cooperate with the board of the Iowa
35 comprehensive petroleum underground storage tank fund to

1 maximize the state's eligibility for and receipt of federal
2 funds for underground storage tank related purposes.

3 Sec. 26. Section 455E.11, subsection 2, paragraph a,
4 unnumbered paragraph 1, Code Supplement 1991, is amended to
5 read as follows:

6 Moneys received from the tonnage fee imposed under section
7 455B.310 and from other sources designated for environmental
8 protection purposes in relation to sanitary disposal projects,
9 except for moneys allocated to the department under subsection
10 2, paragraph "a", subparagraph (8), subparagraph subdivision
11 (b), subparagraph subdivision parts (ii) and (iii) of this
12 section, and subsection 2, paragraph "a", subparagraph (11),
13 subparagraph subdivision (a), subparagraph subdivision part
14 (ii) of this section shall be deposited in the solid waste
15 account. Moneys allocated to the department under subsection
16 2, paragraph "a", subparagraph (8), subparagraph subdivision
17 (b), subparagraph subdivision parts (ii) and (iii) of this
18 section and subsection 2, paragraph "a", subparagraph (11),
19 subparagraph subdivision (a), subparagraph subdivision part
20 (ii) of this section shall be deposited in the solid waste
21 account of the environmental trust fund created pursuant to
22 section 455B.104.

23 Sec. 27. NEW SECTION. 716B.6 DEPOSIT OF MONEYS
24 COLLECTED.

25 Moneys collected under sections 716B.2, 716B.3, and 716B.4
26 shall be forwarded to the treasurer of state for deposit in
27 the hazardous substance remedial fund created pursuant to
28 section 455B.423.

29 Sec. 28. Section 29C.8A, Code 1991, is repealed.

30 EXPLANATION

31 This bill establishes an environmental trust fund. Moneys
32 designated for permit, monitoring, inspection, and enforcement
33 activities related to air quality, water supply and quality,
34 and solid waste are to be deposited in accounts within the
35 fund or in the hazardous substance remedial fund. The bill

1 also specifies the fund in which other moneys collected under
2 the authority of the department are to be deposited and
3 requires the environmental protection commission to submit an
4 environmental trust fund report to the governor and the
5 general assembly, annually.

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SENATE FILE 2305
FISCAL NOTE

A fiscal note for Senate File 2305 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2305 establishes an Environmental Trust Fund. Moneys currently deposited in the General Fund, as well as moneys received from new fees contained in the bill, would be deposited in the Fund. The Fund would be used by the Department of Natural Resources (DNR) to provide partial funding for administration and enforcement of the State's environmental programs. The Fund would be separated into air quality, water supply, water quality, and solid waste accounts.

The bill provides that administrative and civil fines collected from violators of environmental laws would be deposited in the present Hazardous Substance Remedial Fund. The bill also eliminates the Emergency Response Fund and alters the uses of the Hazardous Substance Remedial Fund.

Fiscal Effect:

Provisions of the bill which redirect receipts from current fees from the General Fund to the new Environmental Trust Fund would have an annual negative impact on the General Fund of \$250,000.

Provisions of the bill which create new fees are estimated to generate \$3.0 million per year. The new fees would be paid by businesses, local governments, and private citizens, and would be deposited in the new Environmental Trust Fund.

Provisions of the bill which redirect receipts for current fines and penalties from the General Fund to the Hazardous Substance Remedial Fund would have an annual negative fiscal impact on the General Fund of \$40,000.

The creation of the Environmental Trust Fund would reduce the DNR's need for General Fund dollars in future fiscal years, however, a determination of the amount of the reduction can not be made. The FY 1992 General Fund budget for these areas is \$1.6 million.

The \$250,000 and \$40,000 changes to receipts to the General Fund would occur in FY 1993. The additional revenue generated by the new fees would begin in late FY 1993, as rule making would not be complete until late in the fiscal year. The reduction in the DNR's General Fund budget would not occur until late in FY 1993 also. All changes would be in full effect in FY 1994.

Source: Department of Natural Resources

(LSB 5249sv, JWR)

FILED MARCH 18, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

DELMERY, CH.
ROSENBERG
JENSEN

SSB 2202
ENVIRONMENT & ENERGY
UTILITIES
— Now —
SENATE/HOUSE FILE 2305
BY (PROPOSED DEPARTMENT OF
NATURAL RESOURCES BILL)

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

A BILL FOR

1 An Act relating to the establishment of an environmental trust
2 fund and providing for the imposition and deposit of fees.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 9B.1, subsection 7, Code Supplement
2 1991, is amended to read as follows:

3 7. A person who knowingly and willfully violates a
4 provision of this section is subject to a civil penalty in an
5 amount not to exceed ten thousand dollars. Moneys collected
6 from the penalties imposed shall be deposited in the waste
7 volume-reduction-and-recycling hazardous substance remedial
8 fund established pursuant to section ~~455B.15~~ 455B.423.

9 Sec. 2. Section 455B.103A, subsection 4, Code Supplement
10 1991, is amended to read as follows:

11 4. An applicant to be covered under a general permit shall
12 pay a permit fee, as established by rule of the commission,
13 which is sufficient in the aggregate to defray the costs of
14 the permit program. Moneys collected shall be remitted to the
15 department and shall be deposited in the environmental trust
16 fund created pursuant to section 455B.104.

17 Sec. 3. NEW SECTION. 455B.104 ENVIRONMENTAL TRUST FUND.

18 1. An environmental trust fund is created in the state
19 treasury, under the control of the department. All moneys
20 collected from fees imposed under sections 455B.103A,
21 subsection 4, 455B.105, 455B.109, 455B.133, subsection 8,
22 455B.133A, 455B.172, subsection 5, 455B.173, subsection 3,
23 455B.190A, 455B.191, 455B.221, 455B.268, 455B.279, 455B.304,
24 455E.11, subsection 2, paragraph a, subparagraph (8),
25 subparagraph subdivision (b), subparagraph subdivision parts
26 (ii) and (iii), and 455E.11, subsection 2, paragraph a,
27 subparagraph (11), subparagraph subdivision (a), subparagraph
28 subdivision part (ii), and other moneys designated for permit,
29 monitoring, inspection, and enforcement activities related to
30 air quality, water supply, water quality, and solid waste
31 shall be deposited in the fund and used solely for the
32 purposes established in this section. Notwithstanding section
33 8.33, any unexpended balance in the environmental trust fund
34 at the end of the fiscal year shall be retained in the fund
35 and the respective accounts within the fund. Notwithstanding

1 section 453.7, subsection 2, interest or earnings on
2 investments or time deposits of the moneys in the
3 environmental trust fund shall be credited to the fund or the
4 respective accounts within the fund. All moneys deposited in
5 or credited to the fund shall be used for the purposes
6 established in section 455B.133 and for permit, monitoring,
7 inspection, and enforcement activities related to air quality,
8 water supply, water quality, and solid waste.

9 2. The following accounts are created within the environ-
10 mental trust fund.

- 11 a. The air quality account.
- 12 b. The water quality account.
- 13 c. The water supply account.
- 14 d. The solid waste account.

15 Moneys credited to the fund shall be deposited in the
16 appropriate account within the fund, and shall be used for
17 purposes established in section 455B.133 and for permit,
18 monitoring, inspection, and enforcement activities in each
19 respective program, including the use of additional full-time
20 equivalent positions.

21 Sec. 4. Section 455B.105, subsection 11, Code Supplement
22 1991, is amended to read as follows:

23 11. a. Adopt, by rule, procedures and forms necessary to
24 implement the provisions of this chapter relating to permits,
25 conditional permits, and general permits. The commission may
26 shall also adopt, by rule, a schedule of fees for permit, and
27 conditional permit, and general permit applications and a
28 schedule of fees which may be periodically assessed for
29 administration of permits, and conditional permits, and
30 general permits. In determining the fee schedules, the
31 commission shall consider:

32 (1) The state's reasonable cost of reviewing applications,
33 issuing permits, and conditional permits, and general permits,
34 and checking compliance with the terms of the permits.

35 (2) The relative benefits to the applicant and to the

1 public of permit, and conditional permit, and general permit
2 review, issuance, and monitoring compliance.

3 ~~It is the intention of the legislature that permit fees~~
4 ~~shall not cover any costs connected with correcting violation~~
5 ~~of the terms of any permit and shall not impose unreasonable~~
6 ~~costs on any municipality.~~

7 (3) The typical costs of the particular types of projects
8 or activities for which permits, or conditional permits, or
9 general permits are required, ~~provided that in no~~
10 ~~circumstances shall fees be in excess of the actual costs to~~
11 ~~the department.~~

12 b. The fees collected by the department under this
13 subsection shall be remitted to the treasurer of state and
14 credited to the general fund of the state deposited in the
15 environmental trust fund created in section 455B.104.

16 Sec. 5. Section 455B.109, subsection 4, Code 1991, is
17 amended to read as follows:

18 4. All civil penalties assessed by the department and
19 interest on the penalties shall be deposited in the general
20 fund of the state hazardous substance remedial fund created
21 pursuant to section 455B.423.

22 Sec. 6. Section 455B.133, subsection 8, Code Supplement
23 1991, is amended to read as follows:

24 8. Adopt rules consistent with the federal Clean Air Act
25 Amendments of 1990, Pub. L. No. 101-549, which require the
26 owner or operator of an air contaminant source to obtain an
27 operating permit prior to operation of the source. The rules
28 shall specify the information required to be submitted with
29 the application for a permit and the conditions under which a
30 permit may be granted, modified, suspended, terminated,
31 revoked, reissued, or denied. The commission ~~may~~ shall impose
32 fees, including fees upon regulated pollutants emitted from an
33 air contaminant source, in an amount sufficient to cover all
34 reasonable costs, direct and indirect, required to develop and
35 administer the permit program in conformance with the federal

1 Clean Air Act Amendments of 1990, Pub. L. No. 101-549. In the
2 case of affected sources and affected units regulated under
3 Title IV of the federal Clean Air Act Amendments of 1990, Pub.
4 L. No. 101-549, such fees shall be collected only as provided
5 in and upon submission of an application pursuant to section
6 408 of the federal Act. The fees collected pursuant to this
7 subsection shall be deposited in the air contaminant-source
8 quality account of the environmental trust fund created
9 pursuant to section 455B.133B, and shall be utilized solely to
10 cover all reasonable costs required to develop and administer
11 the programs required by Title V of the federal Clean Air Act
12 Amendments of 1990, Pub. L. No. 101-549, including the permit
13 program pursuant to section 502 of the federal Act and the
14 small business stationary source technical and environmental
15 assistance program pursuant to section 507 of the federal Act.

16 Sec. 7. Section 455B.133A, subsection 2, Code Supplement
17 1991, is amended to read as follows:

18 2. Moneys collected shall be deposited in the air
19 contaminant-source quality account of the environmental trust
20 fund created pursuant to section 455B.133B. Notwithstanding
21 section 8.33, any unexpended balance remaining in the fund,
22 which was generated pursuant to this section, shall remain in
23 the fund for the purposes designated under section 455B.133,
24 subsection 8. Notwithstanding section 453.7, any interest and
25 earnings on investments from moneys in the fund account shall
26 be used for the purposes of the fund account.

27 Sec. 8. Section 455B.133B, subsection 1, Code Supplement
28 1991, is amended to read as follows:

29 1. An air contaminant-source quality account of the
30 environmental trust fund ~~is~~ created in section 455B.104 is
31 established in the office of the treasurer of state under the
32 control of the department. Moneys received from the fees
33 assessed pursuant to sections 455B.133A and 455B.133,
34 subsection 8, shall be deposited in the fund account. Moneys
35 collected pursuant to section 455B.133, subsection 8, shall be

1 used solely to defray the costs related to the permit,
2 monitoring, and inspection program, including the small
3 business stationary source technical and environmental
4 compliance assistance program required pursuant to the federal
5 Clean Air Act Amendments of 1990, sections 502 and 507, Pub.
6 L. No. 101-549. Notwithstanding section 8.33, any unexpended
7 balance in the fund account at the end of each fiscal year
8 shall be retained in the fund account. Notwithstanding
9 section 453.7, any interest and earnings on investments from
10 money in the fund account shall be credited to the fund
11 account.

12 Sec. 9. Section 455B.146, Code Supplement 1991, is amended
13 to read as follows:

14 455B.146 CIVIL ACTION FOR COMPLIANCE -- LOCAL PROGRAM
15 ACTIONS.

16 If any order, permit, or rule of the department is being
17 violated, the attorney general shall, at the request of the
18 department or the director, institute a civil action in any
19 district court for injunctive relief to prevent any further
20 violation of the order, permit, or rule, or for the assessment
21 of a civil penalty as determined by the court, not to exceed
22 ten thousand dollars per day for each day such violation
23 continues, or both such injunctive relief and civil penalty.
24 Moneys collected under this section shall be deposited in the
25 hazardous substance remedial fund established pursuant to
26 section 455B.423. Notwithstanding sections 331.302 and
27 331.307, a city or county which maintains air pollution
28 control programs authorized by certificate of acceptance under
29 this division may provide civil penalties consistent with the
30 amount established for such penalties under this division.

31 Sec. 10. Section 455B.172, subsection 5, unnumbered para-
32 graph 2, Code Supplement 1991, is amended to read as follows:

33 The department shall by rule adopt standards for the
34 commercial cleaning of private sewage disposal facilities,
35 including but not limited to septic tanks and pits used to

1 collect waste in livestock confinement structures, and for the
2 disposal of waste from the facilities. The standards shall
3 not be in conflict with the state building code. A person
4 shall not commercially clean such facilities or dispose of
5 waste from such facilities unless the person has been issued a
6 license by the department. The department ~~shall be~~ is
7 exclusively responsible for adopting the standards and issuing
8 licenses. However, county boards of health shall enforce the
9 standards and licensing requirements established by the
10 department. Application for the license shall be made in the
11 manner provided by the department. Licenses expire one year
12 from the date of issue unless revoked and may be renewed in
13 the manner provided by the department. The license or license
14 renewal fee is twenty-five dollars and shall be deposited in
15 the environmental trust fund created in section 455B.104. A
16 person violating this section or the rules adopted pursuant to
17 this section, is subject to a civil penalty of not more than
18 twenty-five dollars. Each day that a violation continues
19 constitutes a separate offense. However, the total civil
20 penalty shall not exceed five hundred dollars per year. The
21 penalty shall be assessed for a violation occurring ten days
22 following written notice of the violation delivered to the
23 person by the department or a county board of health. Moneys
24 collected by the department or a county board of health from
25 the imposition of civil penalties shall be deposited in the
26 ~~general-fund-of-the-state~~ hazardous substance remedial fund
27 created in section 455B.423.

28 Sec. 11. Section 455B.173, subsection 3, unnumbered
29 paragraph 1, Code Supplement 1991, is amended to read as
30 follows:

31 Establish, modify, or repeal rules relating to the
32 location, construction, operation, and maintenance of disposal
33 systems and public water supply systems and specifying the
34 conditions under which the director shall issue, revoke,
35 suspend, modify, or deny permits for the operation,

1 installation, construction, addition to, or modification of
2 any disposal system or public water supply system, or for the
3 discharge of any pollutant, or for the disposal of water
4 wastes resulting from poultry and livestock operations. Rules
5 establishing permit fees shall also be adopted by the
6 commission, pursuant to section 455B.105. Moneys collected
7 shall be deposited in the environmental trust fund established
8 pursuant to section 455B.104. The rules specifying the
9 conditions under which the director shall issue permits for
10 the construction of an electric power generating facility
11 subject to chapter 476A shall provide for issuing a
12 conditional permit upon the submission of engineering
13 descriptions, flow diagrams, and schematics that qualitatively
14 and quantitatively identify effluent streams and alternative
15 disposal systems that will provide compliance with effluent
16 standards or limitations.

17 Sec. 12. Section 455B.190A, subsection 5, Code Supplement
18 1991, is amended by adding the following new paragraph:

19 NEW PARAGRAPH. c. Fees collected under paragraphs "a" and
20 "b" shall be deposited in the environmental trust fund created
21 pursuant to section 455B.104.

22 Sec. 13. Section 455B.191, Code 1991, is amended by adding
23 the following new subsection:

24 NEW SUBSECTION. 7. All moneys collected under this
25 section shall be deposited in the hazardous substance remedial
26 fund created pursuant to section 455B.423.

27 Sec. 14. Section 455B.221, Code 1991, is amended to read
28 as follows:

29 455B.221 CERTIFICATION AND EXAMINATION FEES.

30 The director may charge a fee for certificates issued under
31 this part. The fee for the certificates and for renewal shall
32 be based on the costs of administering and enforcing this part
33 and paying the expenses of the department relating to
34 certification. The department shall be reimbursed for all
35 costs incurred. The director shall set a fee for the

1 examination which shall be based upon the annual cost of
2 administering the examinations. All fees collected shall be
3 ~~remitted to the treasurer of state, who shall deposit the~~
4 ~~funds in the general fund of the state. Funds shall be~~
5 ~~appropriated from the general fund to the department~~ deposited
6 in the environmental trust fund created pursuant to section
7 455B.104.

8 Sec. 15. Section 455B.268, Code 1991, is amended by adding
9 the following new subsection:

10 NEW SUBSECTION. 4. The commission shall adopt rules which
11 establish fees for permits issued under this section, pursuant
12 to section 455B.105. Moneys collected shall be deposited in
13 the environmental trust fund created in section 455B.104.

14 Sec. 16. Section 455B.279, subsection 2, Code 1991, is
15 amended to read as follows:

16 2. A person who violates a provision of this part or a
17 rule or order adopted or promulgated or the conditions of a
18 permit issued pursuant to this part is subject to a civil
19 penalty not to exceed five hundred dollars for each day that a
20 violation occurs. Moneys collected under this section shall
21 be deposited in the hazardous substance remedial fund created
22 pursuant to section 455B.423.

23 Sec. 17. Section 455B.304, Code 1991, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. 16. The commission shall adopt rules
26 establishing permit fees for the construction and operation of
27 sanitary disposal projects. Moneys collected shall be
28 deposited in the environmental trust fund created pursuant to
29 section 455B.104.

30 Sec. 18. Section 455B.304, subsections 11 and 12, Code
31 1991, are amended to read as follows:

32 11. By July 1, 1990, a sanitary landfill disposal project
33 operating with a permit shall have a trained, tested, and
34 certified operator. A certification program including
35 establishment of fees shall be devised or approved by rule of

1 the department. All moneys received under this subsection
2 shall be deposited in the environmental trust fund created
3 pursuant to section 455B.104.

4 12. The commission shall adopt rules for the certification
5 of operators of solid waste incinerators including the
6 establishment of fees. The criteria for certification shall
7 include, but is not limited to, an operator's technical
8 competency and operation and maintenance of solid waste
9 incinerators. All moneys collected under this subsection
10 shall be deposited in the environmental trust fund created
11 pursuant to section 455B.104.

12 Sec. 19. Section 455B.386, Code 1991, is amended to read
13 as follows:

14 455B.386 NOTIFICATION OF SPILLS -- PENALTY.

15 A person manufacturing, storing, handling, transporting, or
16 disposing of a hazardous substance shall notify the department
17 and the local police department or the office of the sheriff
18 of the affected county of the occurrence of a hazardous
19 condition as soon as possible but not later than six hours
20 after the onset of the hazardous condition or discovery of the
21 hazardous condition. A sheriff or police chief who has been
22 notified of a hazardous condition shall immediately notify the
23 department. The department, upon receiving notice of a
24 hazardous condition, shall immediately notify the operator of
25 any public water supply system or private water supply system
26 which may be affected by the hazardous condition. If
27 requested, a person shall submit within thirty days of the
28 department's request a written report of particulars of the
29 incident. A person violating this section is subject to a
30 civil penalty of not more than one thousand dollars. All
31 moneys collected under this section shall be deposited in the
32 hazardous substance remedial fund created pursuant to section
33 455B.423.

34 Sec. 20. Section 455B.417, subsection 3, Code 1991, is
35 amended to read as follows:

1 3. A person who violates a provision of this part or a
2 rule, permit, or order adopted or issued under this part is
3 subject to a civil penalty not to exceed ten thousand dollars
4 for each violation. Each day of violation constitutes a
5 separate violation. All moneys collected under this section
6 shall be deposited in the hazardous substance remedial fund
7 created pursuant to section 455B.423.

8 Sec. 21. Section 455B.423, subsection 2, Code Supplement
9 1991, is amended to read as follows:

10 2. The director may use the fund for any of the following
11 purposes:

12 a. Administrative services for the identification,
13 assessment and cleanup of hazardous waste or hazardous
14 substance disposal sites.

15 b. Payments to other state agencies for services
16 consistent with the management of hazardous waste or hazardous
17 substance disposal sites.

18 c. Emergency response activities as provided in part 4 of
19 this division.

20 d. Financing the nonfederal share of the cost of cleanup
21 and site rehabilitation activities as well as postclosure
22 operation and maintenance costs, pursuant to the federal
23 Comprehensive Environmental Response, Compensation and
24 Liability Act of 1980.

25 e. Financing the cost of cleanup and site rehabilitation
26 activities as well as postclosure operation and maintenance
27 costs of hazardous waste or hazardous substance disposal sites
28 that do not qualify for federal cost-sharing pursuant to the
29 federal Comprehensive Environmental Response, Compensation and
30 Liability Act of 1980.

31 f. Through agreements or contracts with other state
32 agencies, work with private industry to develop alternatives
33 to land disposal of hazardous waste or hazardous substances
34 including, but not limited to, resource recovery, recycling,
35 neutralization, and reduction.

1 g. Administration of the waste reduction assistance
2 program or other activities related to assisting Iowa business
3 and industry to reduce, recycle, or otherwise reclaim waste
4 materials generated or processed.

5 ~~However, at least seventy-five percent of the fund shall be~~
6 ~~used for the purposes stated in paragraphs "d" and "e".~~

7 At least fifty percent of the fund shall be used for the
8 purposes stated in paragraphs "d" and "e". Twenty percent, up
9 to a maximum of seventy-five thousand dollars, shall be used
10 for the purposes stated in paragraph "g". The remainder shall
11 be used for the purposes stated in paragraphs "a", "b", "c",
12 and "f".

13 Sec. 22. Section 455B.454, Code 1991, is amended to read
14 as follows:

15 455B.454 PENALTIES.

16 A person required to obtain a site license under this part
17 6 of division IV who constructs a facility without having
18 first obtained the license is subject to a civil penalty of
19 not more than ten thousand dollars for each violation or for
20 each day of continuing violation. Civil penalties collected
21 pursuant to this subsection shall be forwarded by the clerk of
22 court to the treasurer of state for deposit in the ~~general~~
23 fund-of-the-state hazardous substance remedial fund created
24 pursuant to section 455B.423.

25 Sec. 23. Section 455B.466, Code 1991, is amended to read
26 as follows:

27 455B.466 CIVIL PENALTIES.

28 A person who violates a provision of this part is subject
29 to a civil penalty of not more than ten thousand dollars for
30 each violation and for each day of continuing violation.
31 Civil penalties collected pursuant to this section shall be
32 forwarded by the clerk of the district court to the treasurer
33 of state for deposit in the ~~general-fund-of-the-state~~
34 hazardous substance remedial fund created pursuant to section
35 455B.423.

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1 Sec. 24. Section 455B.477, Code 1991, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 8. Penalties collected under this section
4 shall be deposited in the hazardous substance remedial fund
5 created pursuant to section 455B.423.

6 Sec. 25. Section 455B.477, subsection 7, Code 1991, is
7 amended to read as follows:

8 7. ~~The civil-penalties-or-other damages or-moneys~~
9 recovered by the state or the petroleum underground storage
10 tank fund in connection with a petroleum underground storage
11 tank under this part of this division or chapter 455G shall be
12 credited to the fund created in section 455G.3 and allocated
13 between fund accounts according to the fund budget. Any
14 federal moneys, including but not limited to federal
15 underground storage tank trust fund moneys, received by the
16 state or the department of natural resources in connection
17 with a release occurring on or after May 5, 1989, or received
18 generally for underground storage tank programs on or after
19 May 5, 1989, shall be credited to the fund created in section
20 455G.3 and allocated between fund accounts according to the
21 fund budget, unless such use would be contrary to federal law.
22 The department shall cooperate with the board of the Iowa
23 comprehensive petroleum underground storage tank fund to
24 maximize the state's eligibility for and receipt of federal
25 funds for underground storage tank related purposes.

26 Sec. 26. Section 455E.11, subsection 2, paragraph a,
27 unnumbered paragraph 1, Code Supplement 1991, is amended to
28 read as follows:

29 Moneys received from the tonnage fee imposed under section
30 455B.310 and from other sources designated for environmental
31 protection purposes in relation to sanitary disposal projects,
32 except for moneys allocated to the department under subsection
33 2, paragraph "a", subparagraph (8), subparagraph subdivision
34 (b), subparagraph subdivision parts (ii) and (iii) of this
35 section, and subsection 2, paragraph "a", subparagraph (11),

1 subparagraph subdivision (a), subparagraph subdivision part
2 (ii) of this section shall be deposited in the solid waste
3 account. Moneys allocated to the department under subsection
4 2, paragraph "a", subparagraph (8), subparagraph subdivision
5 (b), subparagraph subdivision parts (ii) and (iii) of this
6 section and subsection 2, paragraph "a", subparagraph (11),
7 subparagraph subdivision (a), subparagraph subdivision part
8 (ii) of this section shall be deposited in the solid waste
9 account of the environmental trust fund created pursuant to
10 section 455B.104.

11 Sec. 27. NEW SECTION. 716B.6 DEPOSIT OF MONEYS
12 COLLECTED.

13 Moneys collected under sections 716B.2, 716B.3, and 716B.4
14 shall be forwarded to the treasurer of state for deposit in
15 the hazardous substance remedial fund created pursuant to
16 section 455B.423.

17 Sec. 28. Section 29C.8A, Code 1991, is repealed.

18 EXPLANATION

19 This bill establishes an environmental trust fund. Moneys
20 designated for permit, monitoring, inspection, and enforcement
21 activities related to air quality, water supply and quality,
22 and solid waste are to be deposited in accounts within the
23 fund or in the hazardous substance remedial fund. The bill
24 also specifies the fund in which other moneys collected under
25 the authority of the department are to be deposited.

26 BACKGROUND STATEMENT

27 SUBMITTED BY THE AGENCY

28 The department has, since approximately 1983, had the
29 authority to charge fees for permits issued under provisions
30 of chapter 455B. The department has exercised this authority
31 only in the areas of water supply and water withdrawals;
32 however, statute currently limits the amount of fees that can
33 be charged by linking the charge determination to specific
34 considerations [455B.105(11)(a)]. Also, by law, all fees
35 collected are credited to the general fund of the state.

1 Establishing this fund, requiring fees to be charged, and
2 eliminating the limitations on the base for charging fees
3 would help to provide a more stable and predictable source of
4 funding. "User charges" are becoming more accepted as a
5 source for payment of certain governmental services.

6 Establishing this fund could also relieve pressures on the
7 general fund, although it would not entirely eliminate the
8 need for general fund appropriations to the department for
9 environmental protection programs.

10 During the 1991 General Assembly, the legislature estab-
11 lished a fee structure for air quality permits as required by
12 the recent amendments to the federal Clean Air Act Amendments
13 of 1990. Congress is considering amendments to the federal
14 Clean Water Act which will duplicate these provisions. It is
15 expected that amendments to other federal programs, such as
16 the water supply program, will include similar provisions in
17 the future. Many states currently charge substantial fees for
18 permit issuance. Thus, adoption of this provision would not
19 put Iowa in a disadvantageous position for attracting future
20 development prospects.

21 The proposed language amends section 455B.105, subsection
22 11, to create an environmental trust fund which is subdivided
23 into accounts for air quality, solid waste, water supply,
24 water quality, and remediation. These accounts will be used
25 to fund the administrative costs of the department in
26 operating the programs of appropriate sections of chapter
27 455B. The trust fund would operate in a similar manner to the
28 fish and wildlife trust fund; residual funds unexpended at the
29 end of the year would not revert to the general fund, but
30 remain in the trust for their intended use.

31 Moneys for the trust would be obtained through rules
32 adopted which establish a schedule of fees for permits and
33 conditional permits issued by the department, and a schedule
34 of fees to be periodically assessed for the administration of
35 the permits.