

F I N A L R E P O R T

WATER QUALITY INTERIM STUDY COMMITTEE

January, 1987

The Legislative Council authorized the Water Quality Interim Study Committee, initially authorized in 1985, to continue its work during the 1986 interim. The Legislative Council initially authorized three meetings and subsequently authorized one additional meeting.

Members serving on the Study Committee were:

Senator Larry Murphy, Co-Chairperson
Representative David Osterberg, Co-Chairperson
Senator Charles Bruner
Senator Hurley W. Hall
Senator Forrest V. Schwengels
Representative Jack Hatch
Representative Paul Johnson
Representative Donald Paulin
Representative Victor Stueland.

At its September 8, 1986 meeting the Study Committee received testimony from Governor Bruce Babbitt of Arizona regarding the legislation passed in Arizona and discussed the groundwater issues presented in the legislation and the political problems of its passage. The Department of Natural Resources made presentations on water quality problems in northeast Iowa, water quality problems in the state of Nebraska, and the schedule of progress in developing the groundwater protection strategy. The Committee members discussed the likely progress and their expectations of the groundwater protection strategy proposal with Director Larry Wilson and Mr. Bernie Hoyer of the Department.

At the October 6, 1986 meeting the Committee received testimony from Mr. Larry Morandi of the National Conference of State Legislatures regarding legislative activity in other states on groundwater issues, and State Representative Thomas Brown of Florida

regarding the water quality problems in Florida and the legislative response. Representative Brown's presentation emphasized the collection, transfer and storage of hazardous waste, particularly from small generators, the problems with leaking underground storage tanks, and the costs of funding those programs. The Committee received presentations by, and discussed with, representatives of the Department of Natural Resources the rules being developed on underground storage tanks, the regulation of used oil, and the Toxic Cleanup Days pilot programs in Dubuque and Cedar Rapids. Members of the Committee expressed dissatisfaction with the progress of the rulemaking on underground storage tanks. The Committee also received a proposed bill by Representative Osterberg which would require a wholesaler of a household hazardous waste to affix a stamp to the product. The Committee discussed the application of pesticides in urban areas with a representative of the ChemLawn company.

At the November 10, 1986 meeting the Committee received presentations from an Iowa State University Extension Service sociologist on attitudes of farmers toward water quality and chemical use, a representative of the Iowa Farm Bureau on the water quality issues that would be addressed at its upcoming convention, a representative of the Department of Agriculture and Land Stewardship on the regulation of the use and containment of pesticides, a representative of the Iowa Fertilizer and Chemical Association on practices and training within the industry, a representative of the Department of Transportation on a proposal to have the Department serve as the backbone of a collection of used oil from the citizenry.

The Committee also met with representatives from the Environmental Protection Commission and the Department of Natural Resources to discuss the concerns of the Commission and the Committee with the proposed rules governing underground storage tanks which the Commission had recently received from the staff and postponed action. Members of the Committee noted that the Department was already behind the statutory schedule for the adoption of those rules. The Department also offered comments on the animal waste grant program of Senate File 35 and the wildlife habitat stamp bonds of House File 2489. The Department also presented material on the further developments in the Big Springs Basin Study.

At the December 10, 1986 meeting the Committee received a further presentation from the Department of Transportation regarding the proposal for it to serve as part of a collection system for waste oil. The Committee received draft copies of the groundwater protection strategy proposal and reviewed and discussed it with representatives of the Department of Natural Resources. Director Larry Wilson of the Department reviewed the rules adopted on underground storage tanks. Members of the ad hoc advisory committee to the Environmental Protection Commission and Commissioner Richard Timmerman also presented testimony. Committee members discussed

their agreements and disagreements with the rules.

The Committee took bills and recommendations under consideration at the December 10, 1986 meeting but declined to recommend any bills to the Legislative Council. The Committee decided only to further investigate those proposals which it had before it. Those proposals are as follows:

1. Requiring return deposits on agricultural chemical containers by Representative Osterberg.
2. Requiring disclosure of inert ingredients in pesticides by Senator Bruner.
3. Removing certified applicators from the exemption in the hazardous chemicals right-to-know legislation by Representative Hatch.
4. Requiring a stamp to be affixed to household hazardous waste products by Representative Osterberg.
5. Environmental law revision removing the federal "stringency" clauses, removing the element of knowledge from hazardous waste management violations, reinstating state implementation of the Federal Resource Conservation and Recovery Act, and extending the statute of limitations for actions brought under chapter 455B by Representative Hatch.
6. Establishing an Iowa environmental improvement and energy resources authority (H.F. 2459 last session) by Representative Hatch.

SENATE FILE _____

BY BRUNER

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act to require the disclosure of inert ingredients in
2 pesticides.

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

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DRAFT
FOR DISCUSSION

TL5B 1111SF 72

dsb/sc/14

1 Section 1. Section 206.2, subsection 4, paragraph a, Code
2 1987, is amended to read as follows:

3 a. A statement of the name and percentage by weight of
4 each active ingredient, ~~together with the total percentage of~~
5 ~~the inert ingredients,~~ and each inert ingredient in the
6 pesticide.

7 Sec. 2. Section 206.11, subsection 1, paragraph d,
8 subparagraph 4, Code 1987, is amended to read as follows:

9 (4) An ingredient statement as required in section 206.12,
10 however, the ingredient statement regarding inert ingredients
11 may be on a separate, additional label.

12 Sec. 3. Section 206.12, subsection 2, paragraph c, Code
13 1987, is amended to read as follows:

14 c. An ingredient statement in which the accepted common
15 name and percentage by weight of each active ingredient ~~is~~
16 ~~listed as well as the percentage of inert ingredients~~ and each
17 inert ingredient in the pesticides.

18 EXPLANATION

19 This bill requires the label on a pesticide to disclose the
20 common name and percentage by weight of each inert ingredient.
21 The information may be provided on a separate, additional
22 label.

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HOUSE FILE _____
BY HATCH

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

A BILL FOR

1 An Act relating to the application and use of pesticides.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DRAFT
FOR DISCUSSION

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

3 1. Except for section 89B.9, this chapter does not apply
4 to a person engaged in farming as defined in this section or a
5 pesticide as defined in section 206.2, subsection 1, used,
6 stored, or available for sale by a ~~commercial applicator as~~
7 ~~defined in section 206.27-subsection 127-a-certified~~
8 ~~applicator as defined in section 206.27-subsection 177-a~~
9 certified private applicator as defined in section 206.2,
10 subsection 18, ~~a-certified-commercial-applicator as defined in~~
11 ~~section 206.27-subsection 197-a-pesticide-dealer as defined in~~
12 ~~section 206.27-subsection 247~~ or to activities which are
13 covered under the federal Insecticide, Fungicide, and
14 Rodenticide Act, 7 U.S.C. § 135 et seq.; provided, however,
15 that such persons shall comply with the requirements of the
16 federal Insecticide, Fungicide, and Rodenticide Act, 40 C.F.R.
17 § 170, and chapter 206 where applicable to such persons. As
18 used in this section, "farming" means the cultivation of land
19 for the production of agricultural crops, the raising of
20 poultry, the production of eggs, production of milk, the
21 production of fruit or other horticultural crops, grazing or
22 the production of livestock, spraying, or harvesting. The
23 department of agriculture and land stewardship shall cooperate
24 with the division in an investigation of an agricultural
25 employee's complaint filed pursuant to section 89B.9.

26 Sec. 2. Section 89B.4, subsection 2, Code 1987, is amended
27 by striking the subsection.

28 Sec. 3. Section 206.19, Code 1987, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. Determine the notice to be given to
31 occupants of adjoining properties prior to the application of
32 pesticides.

33 EXPLANATION

34 Sections 1 and 2 remove the exemption of pesticide dealers
35 and applicators from the hazardous chemical right-to-know

1 chapter, except certified private applicators who apply
2 pesticides to their own land or on the land of others without
3 compensation.

4 Section 3 requires the department of agriculture and land
5 stewardship to adopt rules regarding notice to adjoining
6 property occupants when pesticides are to be applied.

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HOUSE FILE _____
BY OSTERBERG

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

A BILL FOR

1 An Act imposing a tax on the first sale of household hazardous
2 materials, appropriating proceeds of the tax, and providing
3 penalties.

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FOR DISCUSSION

TL5B 1087EF 72
dsb/sc/14

1 Section 1. NEW SECTION. 455E.1 DEFINITIONS.

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

4 1. "Department" means the department of revenue and
5 finance.

6 2. "Director" means the director of revenue and finance or
7 the director's authorized assistants and employees.

8 3. "Distributor" means a person in this state who
9 manufactures or produces household hazardous material or who
10 ships, transports, or imports into this state or in any manner
11 acquires or possesses a household hazardous material without
12 stamps affixed, for the purpose of making a first sale of the
13 household hazardous material within the state.

14 4. "First sale" means the first sale or distribution of an
15 individual package of a household hazardous material in
16 intrastate commerce, or the first use of the individual
17 package of a household hazardous material within this state.

18 5. "Household hazardous material" means a household
19 product designated by rule of the department, which includes
20 any of the following materials: motor oils, motor oil
21 filters, degreasers, waxes, polishes, solvents, paints,
22 lacquers, thinners, caustic household cleaners, spot and stain
23 removers with petroleum base, lawn, garden, or household
24 fungicides, insecticides, or herbicides or batteries.
25 However, "household hazardous material" does not include
26 laundry detergents, dishwashing soaps, herbicides or
27 insecticides for application to agricultural crops as part of
28 a farm operation.

29 6. "Individual package of a household hazardous material"
30 means a package of a household hazardous material ordinarily
31 sold at retail.

32 7. "Previously used stamp" means a stamp which is used,
33 sold, or possessed for the purpose of sale or use, to evidence
34 the payment of the tax imposed on an individual package of a
35 household hazardous material after the stamp has, prior to the

1 use, sale, or possession, been used on a previous or separate
2 individual package of a household hazardous material to
3 evidence the payment of tax.

4 8. "Stamp" means the stamp printed, manufactured, or made
5 by authority of the director and issued, sold, or circulated
6 by the department as evidence of payment of the tax imposed
7 under section 455E.2.

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

12 Sec. 2. NEW SECTION. 455E.2 TAX IMPOSED.

13 1. A tax of four percent is imposed on the "first-sale"
14 price of each individual package of a household hazardous
15 material sold in this state. The tax shall be paid only once
16 by the person making the first sale in this state and is due
17 and payable to the department as soon as the household
18 hazardous material is subject to a first sale in Iowa. The
19 tax is imposed as soon as the package of household hazardous
20 material is received by any person in Iowa for the purpose of
21 making a first sale of the household hazardous material.
22 However, if the person making the first sale does not pay the
23 tax, it shall be paid by any person into whose possession the
24 individual package of household hazardous material comes until
25 the tax has been paid in full.

26 2. Payment of the tax shall be evidenced by stamps
27 purchased from the department and securely affixed to each
28 individual package of a household hazardous material in
29 amounts equal to the tax imposed by this section.

30 3. The tax imposed is in lieu of any other occupation or
31 excise tax on household hazardous materials imposed by any
32 political subdivision of the state.

33 Sec. 3. NEW SECTION. 455E.3 PRINTING AND CUSTODY OF
34 STAMPS.

35 The director of the department of general services shall

1 have printed or manufactured stamps of a design, size,
2 denomination, and type and in quantities as determined by the
3 director of revenue and finance. The stamps shall be so
4 manufactured as to render them easy to be securely attached to
5 each individual package of a household hazardous material.
6 The tax stamps shall be in the possession of and under the
7 control of the director of revenue and finance and the
8 director shall keep accurate records of all household
9 hazardous material tax stamps.

10 Sec. 4. NEW SECTION. 455E.4 SALE OF STAMPS AND REFUNDS.

11 1. Stamps shall be sold by and purchased from the
12 department. Stamps shall be sold in unbroken books of one
13 thousand stamps, unbroken rolls of thirty thousand stamps, or
14 unbroken lots of any other form authorized by the director.

15 2. Orders for household hazardous material tax stamps,
16 including the payment for the stamps, shall be sent directly
17 to the department on a form to be prescribed by the director,
18 except as provided in subsection 6.

19 3. The department may make refunds on unused stamps to the
20 person who purchased the stamps at a price equal to the amount
21 paid for the stamps when proof satisfactory to the department
22 is furnished that any stamps upon which a refund is requested
23 were properly purchased from the department and paid for by
24 the person requesting the refund. In making a refund, the
25 department shall prepare a voucher showing the amount of
26 refund due and to whom payable and the comptroller shall then
27 issue a warrant upon order of the director to pay the refund
28 out of any funds in the hazardous waste remedial fund not
29 otherwise appropriated.

30 The director may adopt rules providing for refunds of the
31 face value of stamps affixed to any household hazardous
32 materials which have become unfit for use and consumption,
33 unsalable, or for any other legitimate loss which may occur,
34 upon proof of the loss. The director may adopt rules
35 providing for a refund on stamps which by reason of damage

1 become unfit for sale or use. Refund shall be made in the
2 same manner as provided for unused stamps.

3 4. The department may in the enforcement of this division
4 recall any stamps which have been sold by the department and
5 which have not been used, and the department shall, upon
6 receipt of recalled stamps, issue a refund for tax stamps
7 surrendered for the face value of the stamps. The purchaser
8 of stamps shall surrender any unused stamps for refund upon
9 demand of the department.

10 5. The department shall keep a record of all stamps sold
11 by the department and of all refunds made by the department.

12 6. The director may authorize banks as defined by section
13 524.103, subsection 5 to sell stamps. A bank authorized to
14 sell stamps shall comply with all of the requirements
15 governing the sale of stamps by the department.

16 Sec. 5. NEW SECTION. 455E.5 CHANGE OF DESIGN.

17 The design of the stamps used may be changed as often as
18 the director deems necessary for the best enforcement of this
19 chapter.

20 Sec. 6. NEW SECTION. 455E.6 AFFIXING OF STAMPS BY
21 DISTRIBUTORS.

22 A person holding a household hazardous material for sale or
23 distribution or making a first sale of a household hazardous
24 material in this state shall affix upon every individual
25 package of a household hazardous material received by the
26 person in this state or for distribution in this state, upon
27 which a sufficient tax stamp is not already affixed, a stamp
28 or stamps of an amount equal to the tax due on the package.
29 The stamps shall be affixed within forty-eight hours,
30 exclusive of Sundays and legal holidays, from the hour the
31 household hazardous material was received, and shall be
32 affixed before the person sells, offers for sale, consumes, or
33 otherwise distributes or transports the household hazardous
34 material. A person shall not accept delivery of any household
35 hazardous material without stamps affixed to evidence the

1 payment of the tax, or without having in possession the
2 requisite amount or number of stamps necessary to stamp the
3 household hazardous material. The possession of any unstamped
4 household hazardous material, without the possession of the
5 requisite amount or number of stamps, is prima facie evidence
6 of a violation of this section.

7 Sec. 7. NEW SECTION. 455E.7 CANCELLATION OF STAMPS.

8 Stamps affixed to a package of a household hazardous
9 material shall not be canceled by any letter, numeral, or
10 other mark of identification or otherwise mutilated in any
11 manner that will prevent or hinder the department in making an
12 examination as to the genuineness of the stamp. However, the
13 director may require the cancellation of the tax stamps
14 affixed to packages of household hazardous materials as
15 necessary to properly carry out this chapter.

16 Sec. 8. NEW SECTION. 455E.8 FORMS FOR RECORDS AND
17 REPORTS.

18 The department shall furnish forms without charge to
19 persons requesting them, in sufficient quantities to enable
20 the persons to make the reports required to be made under this
21 chapter. The persons shall furnish at their own expense the
22 books, records, and invoices required to be used and kept, but
23 the books, records, and invoices shall be in exact conformity
24 to the forms prescribed for that purpose by the director, and
25 shall be kept and used in the manner prescribed by the
26 director. However, the director may, by express order in
27 certain cases, authorize a person to keep records in a manner
28 and upon forms other than those so prescribed. The
29 authorization may be revoked at any time.

30 Sec. 9. NEW SECTION. 455E.9 EXAMINATION OF RECORDS AND
31 PREMISES.

32 1. For the purpose of enabling the department to determine
33 the tax liability of a person dealing in a household hazardous
34 material or to determine whether a tax liability has been
35 incurred, the department has the right to inspect any premises

1 of a person who sells a household hazardous material located
2 within the state of Iowa where a household hazardous material
3 is manufactured, produced, made, stored, transported, sold, or
4 offered for sale or exchange, and to examine all of the
5 records required to be kept or any other records that may be
6 kept incident to the conduct of the household hazardous
7 material business of the person dealing in a household
8 hazardous material.

9 2. The authorized officers may also as an incident to
10 determining the tax liability, or whether a tax liability has
11 been incurred, examine all stocks of household hazardous
12 materials and stamps. The authorized officers may also remain
13 upon the premises for the length of time necessary to fully
14 determine the tax liability, or whether a tax liability has
15 been incurred.

16 3. The person shall not fail to produce upon demand of the
17 department any records required to be kept and shall not
18 hinder or prevent in any manner the inspection of the records
19 or the examination of the premises.

20 The director may administer oaths and require by subpoena
21 the attendance and testimony of witnesses and the production
22 of all relevant books, papers, and records. The attendance
23 and production may be required at the statehouse in Des
24 Moines, or at any place convenient for the investigation. If
25 a person fails or refuses to obey a subpoena so issued, the
26 director may procure an order from the district court in the
27 county where the person resides, or where the person is found,
28 requiring the person to appear for examination and to produce
29 the books, papers, and records required in the subpoena.
30 Failure to obey the order shall be punished by the court as
31 contempt of the court.

32 Sec. 10. NEW SECTION. 455E.10 ADMINISTRATION.

33 1. The director shall administer this chapter, and shall
34 collect, supervise, and enforce the collection of all taxes
35 and penalties due under this chapter.

1 2. The director may shall make and publish rules, not
2 inconsistent with this chapter, necessary and advisable for
3 its detailed administration, and shall collect the taxes
4 imposed.

5 3. The director may request aid in enforcement from the
6 attorney general, the special agents of the state, any county
7 attorney, or any peace officer. The director may appoint
8 clerks and additional employees as needed to carry out this
9 chapter.

10 Sec. 11. NEW SECTION. 455E.11 LIENS AND ACTIONS.

11 All of the provisions for the lien of the tax, its
12 collection, and other powers as provided in chapter 422,
13 division IV, apply to the tax imposed by this chapter. If the
14 sales tax and the household hazardous material tax become
15 conflicting liens, they shall be of equal priority.

16 Sec. 12. NEW SECTION. 455E.12 VENUE OF ACTIONS TO
17 COLLECT.

18 Venue of any civil proceedings filed under this chapter to
19 collect the taxes, and penalties imposed under this chapter is
20 in a court of competent jurisdiction in Polk county, or in any
21 court having jurisdiction.

22 Sec. 13. NEW SECTION. 455E.13 ASSESSMENT OF TAX BY
23 DEPARTMENT -- INTEREST -- PENALTY.

24 If after an audit, examination of records, or other
25 investigation the department finds that a person has sold a
26 household hazardous material without stamps affixed as
27 required by this chapter or that a person has failed to pay a
28 tax imposed by this chapter, the department shall fix and
29 determine the amount of tax due, and shall assess the tax
30 against the person, together with a penalty of five percent of
31 the amount of the tax. The taxpayer shall pay interest on the
32 tax or additional tax at the rate determined under section
33 421.7 counting each fraction of a month as an entire month,
34 computed from the date the tax was due. If a person fails to
35 furnish evidence satisfactory to the director showing

1 purchases of sufficient stamps for the unstamped household
2 hazardous material purchased by the person, the presumption is
3 that the household hazardous material was sold without the
4 proper stamps affixed. Within two years after a report is
5 filed or within two years after a tax becomes due, whichever
6 is later, the department shall examine it and determine the
7 correct amount of tax.

8 Sec. 14. NEW SECTION. 455E.14 NOTICE AND APPEAL.

9 The department shall notify any person assessed pursuant to
10 section 455E.13 by sending a written notice of the
11 determination and assessment by certified mail to the
12 principal place of business of the person as shown on the
13 person's application for stamps, or, if an application was not
14 filed by the person, to the person's last known address.
15 Judicial review of action of the department may be sought in
16 accordance with the terms of the Iowa administrative procedure
17 Act and section 422.29.

18 Sec. 15. NEW SECTION. 455E.15 ASSESSMENT OF COST OF
19 AUDIT.

20 The department may employ auditors or other persons to
21 audit and examine the books and records of any person selling
22 or distributing a household hazardous material to ascertain
23 whether the person has paid the amount of the taxes required
24 to be paid under this chapter. If the taxes have not been
25 paid as required, the department shall assess against the
26 person, as additional penalty, the reasonable expenses and
27 costs of the investigation and audit.

28 Sec. 16. NEW SECTION. 455E.16 CIVIL PENALTY FOR CERTAIN
29 VIOLATIONS.

30 If a person fails to keep any of the records required to be
31 kept by this chapter, or sells household hazardous material
32 upon which a tax is required to be paid without affixing the
33 proper stamps, or if a distributor, wholesaler, or
34 distributor's agent fails to make reports to the department
35 required, or makes a false or incomplete report with the

1 intent to evade tax, or if a person stores an unstamped
2 household hazardous material in the state or distributes or
3 delivers an unstamped household hazardous material within this
4 state without at the time of storage or delivery having the
5 proper stamps affixed, or if a person fails or refuses to
6 abide by any of the provisions of this chapter or the rules
7 adopted under this chapter, the person is civilly liable to
8 the state as a penalty in the sum of fifty dollars for each
9 offense. Each violation is a separate offense, and the same
10 violation is a separate offense for each day it continues.
11 However, if a violation is due to reasonable cause, the
12 director of revenue shall waive or reduce the penalty imposed
13 under this section.

14 Sec. 17. NEW SECTION. 455E.17 RESTRICTIONS ON
15 INJUNCTION.

16 A person who invokes the power and remedies of injunction
17 against the department to restrain or enjoin the department
18 from enforcement of the collection of the tax levied in this
19 chapter upon any grounds for which an injunction may be issued
20 shall file the proceedings in a court of competent
21 jurisdiction in Polk county, and venue for the injunction is
22 in Polk county.

23 Sec. 18. NEW SECTION. 455E.18 TAXES PAID TO FUNDS --
24 HOUSEHOLD HAZARDOUS WASTE CLEANUP FUND CREATED.

25 One-half of the proceeds derived from the sale of stamps
26 and the payment of taxes and penalties under this chapter
27 shall be credited to the hazardous waste remedial fund of the
28 state and the other half of the proceeds shall be credited to
29 the household hazardous waste cleanup fund, hereby created,
30 which is appropriated to the department of natural resources
31 to conduct programs to collect and dispose of small amounts of
32 hazardous wastes that are being stored in residences or on
33 farms. The program shall be known as "Toxic Cleanup Days".
34 The department of natural resources shall promote and conduct
35 the program and shall, or shall contract with a qualified and

1 bonded waste handling company to, collect and properly dispose
2 of wastes believed by the person disposing of the wastes to be
3 hazardous. The department of natural resources shall
4 establish maximum amounts of hazardous wastes to be accepted
5 from a person during the "Toxic Cleanup Days" program.
6 Amounts accepted above the maximum may be subject to a fee set
7 by the department. The department of natural resources shall
8 not assess a fee for amounts accepted below the maximum
9 amount. The department of natural resources shall designate
10 the times and dates that wastes shall be collected through a
11 regional program that will annually provide an opportunity for
12 disposal for each part of the state. The department of
13 natural resources shall cooperate with local governmental
14 units and service organizations in promoting and conducting
15 this program including, but not limited to, assisting the
16 local government or service organization in obtaining grants
17 to help defray the expenses of the program.

18 Sec. 19. NEW SECTION. 455E.19 UNLAWFUL ACTS.

19 1. Except as otherwise provided in this chapter, it is
20 unlawful for a person to have in possession for sale or
21 distribution, or to sell, distribute, use, or present as a
22 gift or prize, a household hazardous material upon which a tax
23 is required to be paid by this chapter, without having affixed
24 to each individual package of a household hazardous material,
25 the proper stamp evidencing the payment of the tax. The
26 absence of the stamp on the individual package of a household
27 hazardous material is notice to all persons that the tax has
28 not been paid and is prima facie evidence of the nonpayment of
29 the tax.

30 2. A person shall not use, sell, offer for sale, or
31 possess for the purpose of use or sale within this state, any
32 previously used stamp or stamps, or attach any previously used
33 stamps to an individual package of a household hazardous
34 material, nor shall any person purchase stamps from any person
35 other than the department or sell stamps purchased from the

1 department.

2 Sec. 20. NEW SECTION. 455E.20 COUNTERFEITING AND
3 PREVIOUSLY USED STAMPS.

4 A person who shall print, engrave, make, issue, sell, or
5 circulate, or shall possess or have in the person's possession
6 with intent to use, sell, circulate, or pass, any counterfeit
7 stamp or previously used stamp, or who shall use, or consent
8 to the use of, any counterfeit stamp or previously used stamp
9 in connection with the sale, or offering for sale, of a
10 household hazardous material, or who shall place, or cause to
11 be placed, on any individual package of a household hazardous
12 material, any counterfeit stamp or previously used stamp, is
13 guilty of an aggravated misdemeanor.

14 EXPLANATION

15 The bill creates a new chapter tentatively numbered 455E
16 which imposes a four percent tax on the first sale of a
17 household hazardous material in the state. A stamp bought
18 from the department of revenue and finance shall be affixed to
19 each individual package at the point of first sale in the
20 state. Moneys collected would also be deposited in the
21 hazardous waste remedial fund and in a fund to provide for the
22 collection and disposal of household hazardous waste. Certain
23 acts are prohibited and penalties are provided.

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HOUSE FILE _____
BY HATCH

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

A BILL FOR

1 An Act relating to the authority of the department of natural
2 resources regarding environmental laws.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. NEW SECTION. 455B.133 LIMITATIONS.

2 A civil or criminal action authorized by this chapter may
3 be brought up to and not more than two years after the depart-
4 ment knew, or should have known through the use of reasonable
5 diligence, or received notice in writing of facts which would
6 appear to sustain the action. This section does not apply if
7 a longer period for bringing the action is provided by this
8 chapter or chapters 514 or 802.

9 Sec. 2. Section 455B.133, subsection 4, unnumbered para-
10 graph 1, Code 1987, is amended to read as follows:

11 4. Adopt, amend or repeal emission limitations or
12 standards relating to the maximum quantities of air
13 contaminants that may be emitted from any air contaminant
14 source. ~~The standards or limitations adopted under this~~
15 ~~section shall not exceed the standards or limitations~~
16 ~~promulgated by the administrator of the United States~~
17 ~~environmental protection agency or the requirements of the~~
18 ~~federal Clean Air Act as amended to January 17, 1979. This~~
19 ~~does not prohibit the commission from adopting a standard for~~
20 ~~a source or class of sources for which the United States~~
21 ~~environmental protection agency has not promulgated a~~
22 ~~standard.~~

23 Sec. 3. Section 455B.173, subsection 2, unnumbered
24 paragraph 2, Code 1987, is amended to read as follows:

25 ~~If the federal environmental protection agency has~~
26 ~~promulgated an effluent standard or pretreatment standard~~
27 ~~pursuant to section 3017, 306 or 307 of the federal Water~~
28 ~~Pollution Control Act, a pretreatment or effluent standard~~
29 ~~adopted pursuant to this section shall not be more stringent~~
30 ~~than the federal effluent or pretreatment standard for such~~
31 ~~source. This section may not preclude the establishment of a~~
32 ~~more restrictive effluent limitation in the permit for a~~
33 ~~particular point source if the more restrictive effluent~~
34 ~~limitation is necessary to meet water quality standards, the~~
35 ~~establishment of an effluent standard for a source or class of~~

1 ~~sources for which the federal environmental protection agency~~
2 ~~has not promulgated standards pursuant to section 304, 305 or~~
3 ~~307 of the federal Water Pollution Control Act.~~ Except as
4 required by federal law or regulation, the commission shall
5 not adopt an effluent standard more stringent with respect to
6 any pollutant than is necessary to reduce the concentration of
7 that pollutant in the effluent to the level due to natural
8 causes, including the mineral and chemical characteristics of
9 the land, existing in the water of the state to which the
10 effluent is discharged. Notwithstanding any other provision
11 of this part of this division, any new source, the
12 construction of which was commenced after October 18, 1972,
13 and which was constructed as to meet all applicable standards
14 of performance for the new source or any more stringent
15 effluent limitation required to meet water quality standards,
16 shall not be subject to any more stringent effluent
17 limitations during a ten-year period beginning on the date of
18 completion of construction or during the period of
19 depreciation or amortization of the pollution control
20 equipment for the facility for the purposes of section 167 and
21 169 or both sections of the Internal Revenue Code of 1954,
22 whichever period ends first.

23 Sec. 4. Section 455B.417, subsection 1, unnumbered
24 paragraph 1, Code 1987, is amended to read as follows:

25 1. A person shall not knowingly do any of the following
26 acts:

27 Sec. 5. Section 455B.474, subsection 1, paragraph f, Code
28 1987, is amended to read as follows:

29 f. Specifying an adequate monitoring system to detect the
30 presence of a leaking underground storage tank and to provide
31 for protection of the groundwater resources for regulated
32 tanks installed prior to May 1, 1986. The commission shall
33 adopt these rules not later than April 1, 1986; however, the
34 effective date of the rules adopted shall be May 1, 1988. In
35 ~~the event that federal regulations are adopted by the United~~

1 ~~States-environmental-protection-agency-after-the-commission~~
2 ~~has-adopted-state-standards-pursuant-to-this-subsection, the~~
3 ~~commission shall immediately proceed to adopt rules consistent~~
4 ~~with those federal regulations adopted.~~

5 Sec. 6. Section 455B.420, Code 1987, is repealed.

6 Sec. 7. 1985 Iowa Acts, chapter 250, section 12,
7 subsection 5, Code 1987, is amended by striking the
8 subsection.

9

EXPLANATION

10 This bill amends chapter 455B regarding the department of
11 natural resources and the environmental laws.

12 Section 1 provides that a criminal or civil action
13 authorized by chapter 455B may be brought up to and not more
14 than two years after the department knew, or through use of
15 reasonable diligence should have known, or received notice in
16 writing of facts which would appear to sustain the action.
17 This provision would not apply if a longer statute of
18 limitation after discovery of the facts is provided by chapter
19 455B, 614, or 802.

20 Sections 2, 3, 5, and 6 amend provisions on air quality
21 standards, water quality standards, hazardous waste management
22 rules, and underground storage tank rules to remove language
23 limiting the department to the standards or rules of the
24 federal government.

25 Section 4 amends section 455B.417, subsection 1, unnumbered
26 paragraph 1, to eliminate the requirement that the department
27 show that the prohibited act was "knowingly" done. These are
28 the prohibited acts under the part of chapter 455B that
29 pertain to hazardous waste management and include transporting
30 the waste to an unpermitted facility, disposing of the waste
31 without or in violation of a permit, making a false statement,
32 and altering or concealing records.

33 Section 7 repeals a provision which suspended state
34 implementation of the federal Resources Conservation and
35 Recovery Act from July 1, 1985 to July 1, 1987.

LSB 1624H 72

HOUSE FILE _____
BY COMMITTEE ON ENERGY AND
ENVIRONMENTAL PROTECTION

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

A BILL FOR

1 An Act to establish an Iowa environmental improvement and energy
2 resources authority.

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

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1 Section 1. NEW SECTION. 455E.1 LEGISLATIVE FINDINGS --
2 PURPOSE.

3 The general assembly finds as follows:

4 1. The establishment of the authority is in all respects
5 for the benefit of the people of the state of Iowa, for the
6 improvement of their health and welfare, and for the promotion
7 of the economy, which are public purposes.

8 2. The authority will be performing an essential
9 governmental function in the exercise of the powers and duties
10 conferred upon it by this chapter.

11 3. There is a need to have adequate facilities in the
12 state to abate or prevent pollution of the air, water, and
13 land of the state.

14 4. There is a need to develop energy resources, especially
15 alternative energy resources, in the state.

16 5. There is a need to assure adequate availability of
17 financing with reasonable rates and terms for the development
18 of environmental protection facilities and energy resource
19 production facilities in the state.

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

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

23 1. "Authority" means the Iowa environmental improvement
24 and energy resources authority.

25 2. "Disposal of solid waste or hazardous waste" means the
26 entire process of storage, collection, transportation,
27 processing, and disposal of solid wastes or hazardous wastes.

28 3. "Energy resources" means the resources necessary to
29 develop the forms of energy production specified in section
30 455E.5, subsection 16, paragraphs a, b, and c.

31 4. "Hazardous waste" means as defined in section 455B.411,
32 subsection 3.

33 5. "Pollution" means the placing of any noxious substance
34 in the air or waters or on the lands of this state in
35 sufficient quantity and of such amounts, characteristics, and

1 duration as to injure or harm the public health or welfare,
2 animal life, or property.

3 6. "Project" means a facility, which may include land,
4 disposal areas, incinerators, buildings, fixtures, machinery,
5 and equipment acquired or constructed, or to be acquired or
6 constructed by the authority for the purpose of disposal of
7 solid waste or hazardous waste, preventing or reducing
8 pollution, or developing energy resources.

9 7. "Solid waste" means garbage, refuse, discarded
10 materials, and undesirable solid and semisolid residual matter
11 resulting from industrial, commercial, agricultural, or
12 community activities in such amounts, characteristics, and
13 duration as to injure or harm the public health or welfare or
14 animal life or property.

15 8. "Synthetic fuel" means a solid, liquid, gas, or
16 combination of these, which can be used as a substitute for
17 petroleum, natural gas, or any derivatives of them, including
18 chemical feedstocks, and which is produced by chemical or
19 physical transformation, other than washing, cooking, or
20 desulfurizing of domestic sources of coal, including lignite
21 and peat; shale; tar sands, including heavy oils; water as a
22 source of hydrogen only through electrolysis; and mixtures of
23 coal and combustible liquids including petroleum.

24 Sec. 3. NEW SECTION. 455E.3 ESTABLISHMENT OF AUTHORITY.

25 1. The Iowa environmental improvement and energy resources
26 authority is established as a public instrumentality and
27 agency of the state exercising public and essential
28 governmental functions. The authority is established to
29 provide for the conservation of the air, land, and water
30 resources of the state by preventing or reducing the pollution
31 of the resources and proper methods of disposal of solid waste
32 or hazardous waste; to provide for the development of the
33 energy resources of the state; to further programs the
34 authority is authorized to acquire and construct; and to
35 finance projects and issue bonds and notes as provided in this

1 chapter to pay the costs of the projects. Projects shall be
2 developed to attain compliance with applicable federal and
3 state standards and regulations.

4 2. The powers of the authority are vested in and exercised
5 by a five-member board. Members shall be appointed by the
6 governor, subject to confirmation of the senate. No more than
7 three members shall belong to the same political party. All
8 members shall be residents of the state. At least one member
9 shall be a representative of an environmental organization, at
10 least one member shall be a representative of business and
11 industry, and at least one member shall be a representative of
12 the landfill or waste recovery industry. The term of each
13 member shall begin and end as provided in section 69.19. A
14 vacancy shall be filled as provided in section 2.32. The
15 members shall serve terms of three years. A person appointed
16 to fill a vacancy shall serve only for the unexpired portion
17 of the term. A member is eligible for reappointment. A
18 member of the authority may be removed from office by the
19 governor for misfeasance, malfeasance, willful neglect of
20 duty, or other just cause but only after notice and hearing,
21 unless the notice and hearing is expressly waived in writing.

22 3. Three members are a quorum and the affirmative vote of
23 three members is necessary for substantive action to be taken
24 by the authority. A required majority shall not include a
25 member who has a conflict of interest and a statement by a
26 member of a conflict of interest is conclusive for this
27 purpose. A vacancy in the membership does not impair the
28 right of a quorum to exercise all rights and perform all
29 duties of the authority.

30 4. The members are entitled to receive forty dollars per
31 diem for each day spent in performance of duties as members,
32 and shall be reimbursed for all actual and necessary expenses
33 incurred in the performance of duties as members.

34 5. The members of the authority and the executive director
35 shall give bond as required for public officers in chapter 64.

1 6. Meetings of the authority shall be held at the call of
2 the chairperson or when two members so request.

3 7. The members shall elect a chairperson and vice
4 chairperson annually, and other officers as they determine,
5 but the executive director, appointed pursuant to section
6 455E.4, is a nonvoting ex officio member of the board and
7 shall serve as secretary to the authority.

8 8. The net earnings of the authority, beyond those
9 necessary for retirement of its notes, bonds, or other
10 obligations, or to implement the authorized public purposes
11 and programs, shall not inure to the benefit of any person
12 other than the state. Upon termination of the existence of
13 the authority, title to all property owned by the authority,
14 including any such net earnings of the authority, vests in the
15 state.

16 Sec. 4. NEW SECTION. 455E.4 EXECUTIVE DIRECTOR -- STAFF.

17 1. The governor shall appoint, subject to confirmation by
18 the senate, an executive director of the authority, to serve a
19 four-year term at the pleasure of the governor. The term
20 begins and ends as provided in section 69.19. The executive
21 director shall be selected primarily for administrative
22 ability and knowledge in the field, without regard to
23 political affiliation. The executive director shall not,
24 directly or indirectly, exert influence to induce other
25 officers or employees of the state to adopt a political view,
26 or to favor a political candidate for office.

27 2. The executive director is a nonvoting ex officio member
28 of the board, and shall advise the authority on matters
29 relating to finance, carry out all directives from the
30 authority, and hire and supervise the authority's staff
31 pursuant to its directions and under chapter 19A, except that
32 principal administrative assistants with responsibilities in
33 loan programs, accounting, and processing of applications for
34 loans are exempt from that chapter.

35 3. The executive director, as secretary of the authority,

1 is custodian of all books, documents, and papers filed with
2 the authority and of its minute book and seal. The executive
3 director may cause copies to be made of all minutes and other
4 records and documents of the authority and give certificates
5 under the seal of the authority to the effect that the copies
6 are true copies and all persons dealing with the authority may
7 rely upon the certificates.

8 Sec. 5. NEW SECTION. 455E.5 POWERS.

9 The authority has all of the general powers needed to carry
10 out its purposes and duties, and to exercise its specific
11 powers, including but not limited to the power to:

- 12 1. Sue and be sued in its own name.
- 13 2. Have and alter a corporate seal.
- 14 3. Make and alter bylaws for its management consistent
15 with this chapter.
- 16 4. Make and execute agreements, contracts, and other
17 instruments, with any public or private entity, including but
18 not limited to any federal governmental agency or
19 instrumentality. The authority may make and execute contracts
20 with a firm of independent certified public accountants to
21 prepare an annual report on behalf of the authority. All
22 political subdivisions, other public agencies, and state
23 agencies may enter into contracts and otherwise cooperate with
24 the authority. The authority may also enter into contracts
25 with other states with the purpose of achieving interstate
26 cooperation of the disposal of hazardous waste.
- 27 5. Procure insurance against any loss in connection with
28 its operations.
- 29 6. Accept appropriations, gifts, grants, loans, or other
30 aid from public or private entities. A record of all gifts or
31 grants, stating the type, amount, and donor, shall be clearly
32 set out in the authority's annual report along with the record
33 of other receipts.
- 34 7. Provide to public and private entities technical
35 assistance and counseling related to the authority's purposes.

1 8. Contract with attorneys, accountants, finance experts,
2 and other advisors or enter into contracts or agreements for
3 these services with local, state, or federal governmental
4 agencies.

5 9. Issue its negotiable bonds, notes, debentures, capital
6 stock, or other obligations as provided in this chapter in
7 order to directly or indirectly finance its programs.

8 10. Fix and collect fees and charges for its services.

9 11. Subject to agreements with holders of its obligations,
10 invest or deposit moneys of the authority in a manner
11 determined by the authority by rule, notwithstanding chapter
12 452 or 453.

13 12. Make, alter, and repeal rules consistent with this
14 chapter and subject to chapter 17A.

15 13. Acquire, own, construct, reconstruct, enlarge,
16 improve, furnish, equip, maintain, repair, operate, lease,
17 finance, and sell projects and lease projects to any private
18 person or to any public body. A lease may provide for the
19 construction of the project by the lessee.

20 14. Engage in research and development with respect to
21 pollution control facilities and solid waste or hazardous
22 waste disposal facilities and the development of energy
23 resources.

24 15. Sell at private sale any of its property or projects
25 to any person on terms it deems advisable, including the right
26 to receive for the sale notes of the person to whom the sale
27 is made. The sale shall provide for payments adequate to pay
28 the principal of and interest and premiums, if any, on the
29 bonds or notes issued to finance the project or a portion of
30 the project. The sale may provide for the construction of the
31 project by the purchaser of the project.

32 16. Make, purchase, or participate in the purchase of
33 loans to finance the development and marketing of any of the
34 following:

35 a. Means of energy production utilizing energy sources

1 other than fossil or nuclear fuel including, but not limited
2 to, wind, water, solar, biomass, solid waste, and other
3 renewable energy resource technologies.

4 b. Fossil fuels and recycled fossil fuels which are
5 indigenous energy resources produced in the state including
6 coal, heavy oil, and tar sands.

7 c. Synthetic fuels produced in the state.

8 d. Facilities to prevent or abate pollution.

9 17. Make temporary loans, with or without interest, but
10 with such security for repayment as the authority deems
11 reasonably necessary and practical to defray development costs
12 of energy resource development projects.

13 18. Borrow money to carry out and effectuate its purpose
14 in the area of energy resource development and to issue its
15 negotiable bonds or notes as evidence of the borrowing in
16 principal amounts and upon terms as shall be determined by the
17 authority, and to secure the bonds or notes by the pledge of
18 revenues, mortgages, or notes of others as authorized by this
19 chapter.

20 Sec. 6. NEW SECTION. 455E.6 ANNUAL REPORT.

21 The authority shall submit to the governor and to the
22 members of the general assembly who request it, not later than
23 January 15 of each year, a complete and economically designed
24 and reproduced report setting forth:

25 1. Its operations and accomplishments.

26 2. Its receipts and expenditures during the fiscal year,
27 in accordance with the classifications it establishes for its
28 operating and capital accounts.

29 3. Its assets and liabilities at the end of its fiscal
30 year and the status of reserve, special, and other funds.

31 4. A statement of its proposed and projected activities.

32 5. Recommendations to the general assembly, as it deems
33 necessary.

34 6. An analysis of the need for environmental protection
35 and energy projects.

1 7. A schedule of its obligations outstanding at the end of
2 its fiscal year, together with a statement of the amounts
3 redeemed and issued during its fiscal year.

4 Sec. 7. NEW SECTION. 455E.7 OBLIGATIONS ISSUED BY THE
5 AUTHORITY.

6 1. The authority may issue its negotiable obligations in
7 principal amounts as, in the opinion of the authority, are
8 necessary to provide sufficient funds for achievement of its
9 corporate purposes, the payment of interest on its
10 obligations, the establishment of reserves to secure its
11 obligations, and all other expenditures of the authority
12 incident to and necessary or convenient to carry out its
13 purposes and powers. The obligations shall be deemed to be
14 investment securities and negotiable instruments within the
15 meaning of and for all purposes of chapter 554, the uniform
16 commercial code.

17 2. Obligations issued by the authority are payable solely
18 and only out of the moneys, assets, or revenues of the
19 authority, and as provided in agreements with holders of its
20 obligations pledging any particular moneys, assets, or
21 revenues. Taxes or appropriations shall not be pledged for
22 the payment of the obligations. Obligations are not an
23 obligation of this state or any political subdivision of this
24 state other than the authority within the meaning of any
25 constitutional or statutory debt limitations, but are special
26 obligations of the authority payable solely and only from the
27 sources provided in this chapter, and the authority shall not
28 pledge the general credit or taxing power of this state or any
29 political subdivision of this state other than the authority,
30 or make its debts payable out of any moneys except those of
31 the authority.

32 3. Obligations must be authorized by a resolution of the
33 authority. However, a resolution authorizing the issuance of
34 obligations may delegate to an officer of the authority the
35 power to negotiate and fix the details of an issue of bonds or

1 notes by an appropriate certificate of the authorized officer.

2 4. Obligations shall:

3 a. State the date and series of the issue, be
4 consecutively numbered, and state on their face that they are
5 payable both as to principal and interest solely out of the
6 assets of the authority and do not constitute an indebtedness
7 of this state or any political subdivision of this state other
8 than the authority within the meaning of any constitutional or
9 statutory debt limit.

10 b. Be registered, issued in denominations as the authority
11 prescribes, fully negotiable instruments under the laws of
12 this state, signed on behalf of the authority with the manual
13 or facsimile signature of the chairperson or vice chairperson,
14 attested by the manual or facsimile signature of the
15 secretary, and have impressed or imprinted on them the seal of
16 the authority or a facsimile of it. Obligations shall be
17 payable as to interest at rates and at times as the authority
18 determines, be payable as to principal at times over a period
19 not to exceed thirty years from the date of issuance, at
20 places, and with reserved rights of prior redemption, as the
21 authority prescribes, and be sold at prices, at public or
22 private sale, and in a manner as the authority prescribes.
23 The authority may pay all expenses, premiums, and commissions
24 which it deems necessary or advantageous in connection with
25 the issuance and sale. Obligations may be issued under and
26 subject to terms, conditions, and covenants providing for the
27 payment of the principal, redemption premiums if any, and
28 interest, and other terms, conditions, covenants, and
29 protective provisions safeguarding payment, not inconsistent
30 with this chapter, as are found to be necessary by the
31 authority for the most advantageous sale. The terms may
32 include, but are not limited to, covenants with the holders of
33 the obligations as to:

34 (1) Pledging or creating a lien, to the extent provided by
35 the resolution, on moneys or property of the authority or

1 moneys held in trust or otherwise by others to secure the
2 payment of the obligations.

3 (2) Providing for the custody, collection, securing,
4 investment, and payment of any moneys of or due to the
5 authority.

6 (3) The setting aside of reserves or sinking funds and the
7 regulation or disposition of them.

8 (4) Limitations on the purpose to which the proceeds of
9 sale of an issue of obligations then or thereafter to be
10 issued may be applied.

11 (5) Limitations on the issuance of additional obligations
12 and on the refunding of outstanding or other obligations.

13 (6) The procedure by which the terms of a contract with
14 the holders of obligations may be amended or abrogated, the
15 amount of obligations the holders of which must consent to the
16 contract, and the manner in which consent may be given.

17 (7) The creation of special funds into which moneys of the
18 authority may be deposited.

19 (8) Vesting in a trustee properties, rights, powers, and
20 duties in trust as the authority determines, which may include
21 the rights, powers, and duties of the trustee appointed for
22 the holders of any issue of obligations pursuant to section
23 455E.8, in which event the provisions of that section
24 authorizing appointment of a trustee by the holders of
25 obligations shall not apply, or limiting or abrogating the
26 right of the holders of obligations to appoint a trustee under
27 that section, or limiting the rights, duties, and powers of
28 the trustee.

29 (9) Defining the acts or omissions which constitute a
30 default in the obligations and duties of the authority and
31 providing for the rights and remedies of the holders of
32 obligations in the event of a default. However, rights and
33 remedies shall be consistent with the laws of this state.

34 (10) Any other matters which affect the security and
35 protection of the obligations and the rights of the holders or

1 which the authority deems necessary and advisable in
2 furtherance of its purposes.

3 c. Include other information and be subject to other terms
4 and conditions as the authority deems necessary and provides
5 by rule.

6 5. The authority may issue its obligations for the purpose
7 of refunding any obligations of the authority then
8 outstanding, including the payment of any redemption premiums
9 on the obligations and any interest accrued or to accrue to
10 the date of redemption of the outstanding obligations. Until
11 the proceeds of obligations issued for the purpose of
12 refunding outstanding obligations are applied to the purchase
13 or retirement of outstanding obligations or the redemption of
14 outstanding obligations, the proceeds may be placed in escrow
15 and be invested and reinvested in accordance with this
16 chapter. The interest, income, and profits earned or realized
17 on an investment may also be applied to the payment of the
18 outstanding obligations to be refunded by purchase,
19 retirement, or redemption. After the terms of the escrow have
20 been fully satisfied and carried out, any balance of proceeds
21 and interest earned or realized on the investments may be
22 returned to the authority for use by it in any lawful manner.
23 All refunding obligations shall be issued and secured and
24 subject to this chapter in the same manner and to the same
25 extent as other obligations issued pursuant to this chapter.

26 6. The authority may issue negotiable obligation
27 anticipation notes and may renew them from time to time but
28 the maximum maturity of the notes, including renewals, shall
29 not exceed ten years from the date of issue of the original
30 notes. Notes are payable from any available moneys of the
31 authority not otherwise pledged, or from the proceeds of the
32 sale of obligations of the authority in anticipation of which
33 the notes were issued. Notes may be issued for any corporate
34 purpose of the authority. Notes shall be issued in the same
35 manner as other obligations, and the resolution authorizing

1 them may contain any provisions, conditions, or limitations,
2 not inconsistent with this subsection, which the obligation or
3 a resolution of the authority may contain. Notes may be sold
4 at public or private sale. In case of default on its notes or
5 violation of any obligations of the authority to the
6 noteholders, the noteholders have all the remedies provided in
7 this chapter for holders of its obligations. Notes are as
8 fully negotiable as other obligations of the authority.

9 7. A copy of each pledge agreement by or to the authority,
10 including without limitation each obligation resolution,
11 indenture of trust, or similar agreement, or any revisions or
12 supplements to it shall be filed with the secretary of state
13 and no further filing or other action under article 9 of the
14 uniform commercial code, or any other law of the state is
15 required to perfect the security interest in the collateral or
16 any additions to it or substitutions for it, and the lien and
17 trust so created is binding from and after the time made
18 against all parties having claims of any kind in tort,
19 contract, or otherwise against the pledgor.

20 8. Neither the members of the authority nor any person
21 executing its obligations are liable personally on the
22 obligations or are subject to any personal liability or
23 accountability by reason of the issuance of the authority's
24 obligations.

25 9. The authority may create and establish one or more
26 special funds, to be known as "reserve funds", and shall pay
27 into each reserve fund any proceeds of sale of obligations to
28 the extent provided in the resolutions of the authority
29 authorizing their issuance, and any other moneys which may be
30 available to the authority for the purpose of the fund from
31 any other sources. All moneys held in a reserve fund, except
32 as otherwise provided in this chapter, shall be used as
33 required solely for the payment of the principal of
34 obligations secured in whole or in part by the fund or of the
35 sinking fund payments with respect to the obligations, the

1 purchase or redemption of the obligations, the payment of
2 interest on the obligations, or the payments of any redemption
3 premium required to be paid when the obligations are redeemed
4 prior to maturity.

5 Sec. 8. NEW SECTION. 455E.8 REMEDIES OF HOLDERS OF
6 OBLIGATIONS.

7 1. If the authority defaults in the payment of principal
8 or interest on an issue of obligations after they become due,
9 whether at maturity or upon call for redemption, and the
10 default continues for a period of thirty days, or if the
11 authority fails or refuses to comply with this chapter, or
12 defaults in an agreement made with the holders of an issue of
13 obligations, the holders of twenty-five percent in aggregate
14 principal amount of obligations of the issue then outstanding
15 may appoint a trustee to represent the holders of the
16 obligations for the purposes provided in this section by
17 filing an instrument in the office of the clerk of the county
18 in which the principal office of the authority is located.
19 The instrument shall be proved or acknowledged in the same
20 manner as a deed to be recorded.

21 2. The authority or any trustee appointed under the
22 indenture under which the obligations are issued may, and upon
23 written request of the holders of twenty-five percent in
24 aggregate principal amount of the issue of obligations then
25 outstanding shall:

26 a. Enforce all rights of the holders of the obligations,
27 including the right to require the authority to carry out its
28 agreements with the holders and to perform its duties under
29 this chapter.

30 b. Bring suit upon the obligations.

31 c. By action require the authority to account as if it
32 were the trustee of an express trust for the holders.

33 d. By action enjoin any acts or things which are unlawful
34 or in violation of the rights of the holders.

35 e. Declare all the obligations due and payable and if all

1 defaults are made good then with the consent of the holders of
2 twenty-five percent of the aggregate principal amount of the
3 issue of obligations then outstanding, annul the declaration
4 and its consequences.

5 The holders of obligations, to the extent provided in the
6 resolution by which the obligations were issued or in their
7 agreement with the authority, may enforce any of the remedies
8 in paragraphs "a" to "e" or the remedies provided in those
9 agreements for and on their own behalf.

10 3. The trustee also has all powers necessary or
11 appropriate for the exercise of functions specifically set
12 forth or incident to the general representation of the holders
13 of obligations in the enforcement and protection of their
14 rights.

15 4. Before declaring the principal of obligations due and
16 payable, the trustee shall give thirty days' notice in writing
17 to the governor, to the authority, and to the attorney general
18 of the state.

19 5. The district court has jurisdiction of any action by
20 the trustee on behalf of the holders of obligations. The
21 venue of the action shall be in the county in which the
22 principal office of the authority is located.

23 Sec. 9. NEW SECTION. 455E.9 OBLIGATIONS AS LEGAL
24 INVESTMENTS.

25 Obligations of the authority are securities in which public
26 officers, state departments and agencies, political
27 subdivisions, insurance companies, and other persons carrying
28 on an insurance business, banks, trust companies, savings and
29 loan associations, savings banks, investment companies, and
30 other persons carrying on a banking business, administrators,
31 executors, guardians, conservators, trustees, and other
32 fiduciaries, and other persons authorized to invest in bonds
33 or other obligations of this state, may properly and legally
34 invest funds including capital in their control or belonging
35 to them. The obligations are also securities which may be

1 deposited with and may be received by public officers, state
2 departments and agencies, and political subdivisions, for any
3 purpose for which the deposit of bonds or other obligations of
4 this state is authorized.

5 Sec. 10. NEW SECTION. 455.10 NOTICE -- LIMITATION OF
6 ACTION.

7 The authority may publish a notice of its intention to
8 issue obligations in a newspaper published in and with general
9 circulation in the state. The notice shall include a
10 statement of the maximum amount of obligations proposed to be
11 issued, and in general, what funds or revenues will be pledged
12 to pay the obligations and interest on the obligations. An
13 action which questions the legality of obligations or the
14 power of the authority to issue the obligations or the
15 effectiveness of any proceedings adopted for the authorization
16 or issuance of the obligations shall not be brought after
17 sixty days from the date of publication of the notice.

18 Sec. 11. NEW SECTION. 455E.11 MONEYS OF THE AUTHORITY.

19 1. Moneys of the authority shall be paid to the authority
20 and shall be deposited in a bank or other financial
21 institution designated by the authority. The moneys shall be
22 withdrawn on the order of the person authorized by the
23 authority. Deposits shall be secured in the manner determined
24 by the authority. The auditor of state or the auditor's
25 legally authorized representatives may periodically examine
26 the accounts and books of the authority, including its
27 receipts, disbursements, contracts, leases, investments, and
28 other records and papers relating to its financial standing,
29 and the authority shall not be required to pay a fee for the
30 examination.

31 2. The authority shall submit to the governor, the auditor
32 of state, and the state comptroller, within thirty days of its
33 receipt, a copy of the report of every external examination of
34 the books and accounts of the authority other than copies of
35 the reports of examinations made by the auditor of state.

1 Sec. 12. NEW SECTION. 455E.12 LIMITATION OF LIABILITY.
2 Members of the authority and persons acting in its behalf,
3 while acting within the scope of their employment or agency,
4 are not subject to personal liability resulting from carrying
5 out the powers and duties given in this chapter.

6 Sec. 13. NEW SECTION. 455E.13 ASSISTANCE BY STATE
7 OFFICERS, AGENCIES AND DEPARTMENTS.

8 State officers and state departments and agencies may
9 render services to the authority within their respective
10 functions as requested by the authority.

11 Sec. 14. NEW SECTION. 455E.14 CONFLICTS OF INTEREST.

12 1. If a member or employee other than the executive
13 director of the authority has an interest, either direct or
14 indirect, in a contract to which the authority is or is to be
15 a party or in a lending institution participating in a
16 project, the interest of the member or employee shall be
17 disclosed to the authority in writing and shall be set forth
18 in the minutes of the authority. The member or employee
19 having the interest shall not participate in action by the
20 authority with respect to that contract or lending
21 institution.

22 2. This section does not limit the right of a member,
23 officer, or employee of the authority other than the executive
24 director to have an interest in a bank or other financial
25 institution in which the funds of the authority are deposited.

26 3. The executive director shall not have an interest in a
27 bank or other financial institution in which the funds of the
28 authority are deposited. The executive director shall not
29 receive, in addition to fixed salary or compensation, money or
30 anything valuable, either directly or indirectly, or through a
31 substantial interest in another corporation or business unit,
32 for negotiating, procuring, recommending, or aiding in a
33 payment made by the authority under this chapter, nor shall
34 the executive director be pecuniarily interested, either as
35 principal, coprincipal, agent, or beneficiary, either directly

1 or indirectly or through any substantial interest in another
2 corporation or business unit, in a payment made by the
3 authority under this chapter.

4 Sec. 15. NEW SECTION. 455E.15 EXEMPTION FROM COMPETITIVE
5 BID LAWS.

6 The authority and contracts made by it in carrying out its
7 public and essential governmental functions are exempt from
8 the laws of the state which provide for competitive bids in
9 connection with the contracts.

10 Sec. 16. NEW SECTION. 455E.16 PROJECTS SUBJECT TO
11 TAXATION.

12 Projects acquired, constructed, reconstructed, enlarged,
13 improved, furnished, equipped, maintained, repaired, operated,
14 leased, financed, or sold by the authority pursuant to this
15 chapter are subject to all real and tangible personal property
16 taxes and assessments of the state, or any governmental
17 subdivision of the state.

18 Sec. 17. NEW SECTION. 455E.17 TERMINATION OR
19 DISSOLUTION, PROPERTY TO PASS TO STATE.

20 Upon termination or dissolution of the authority, all
21 rights and properties of the authority shall pass to and be
22 vested in the state, subject to the rights of noteholders,
23 bondholders, and other creditors.

24 Sec. 18. NEW SECTION. 455E.18 PROPOSED EXPENDITURE OF
25 FEDERAL FUNDS.

26 On or before January 15 of each year, if the authority
27 desires to receive and expend moneys from the federal
28 government in the next fiscal year of the state, the authority
29 shall submit to the appropriations committees of the senate
30 and house of representatives and an itemization of all federal
31 funds to be received, including the federal source of the
32 funds and plans including the expenditure of the funds.

33 Sec. 19. NEW SECTION. 455E.19 LOANS FOR ENERGY RESOURCE
34 DEVELOPMENT.

35 1. A loan authorized under this chapter shall be made only

1 upon determination by the authority that loans are not
2 otherwise available, either wholly or in part, from private
3 lenders upon reasonably equivalent terms and conditions. A
4 commitment for a loan shall not be made unless all plans for
5 development have been completed and submitted to and found to
6 be satisfactory by the authority.

7 2. The authority shall charge a reasonable fee on all
8 loans not federally insured to insure such loans. The
9 proceeds of the fees shall be deposited in a separate fund of
10 the general fund to be known as the "energy resources insured
11 loan fund". Money in this fund shall not be transferred and
12 placed to the credit of general revenue. Moneys shall not be
13 withdrawn from the fund unless it is to be used for the
14 purchase of loan insurance or to pay for any losses on the
15 loans.

16 Sec. 20. NEW SECTION. 455E.20 INTEREST RATE ON LOANS.

17 1. The authority may from time to time set the interest
18 rates at which it shall make loans, keeping its interest rates
19 at the lowest level consistent with its cost of operation and
20 its responsibilities to the holders of its bonds, bond
21 anticipation notes, and other responsibilities.

22 2. The ratio of loan to project cost and the amortization
23 period of loans made by the authority shall be determined in
24 accordance with rules adopted by the authority.

25 Sec. 21. Notwithstanding section 455E.3, the governor
26 shall appoint initial members of the board for the authority
27 established under that section to staggered terms, one to end
28 the year following appointment, two to end two years following
29 appointment, and two to end three years following appointment.
30 The governor shall appoint initial members in the same manner
31 as vacancies are filled, subject to section 2.32.

32 EXPLANATION

33 This bill establishes a state environmental improvement and
34 energy resources authority. The authority would be empowered
35 to issue bonds to provide financing for or to develop projects

1 to abate or prevent pollution including the disposal of solid
2 wastes or hazardous wastes or that develop energy resources in
3 the state and may make, purchase, or participate in loans for
4 the development of projects. A five-member board is created
5 to set policy for the authority. An executive director is to
6 administer the authority.

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HOUSE FILE _____
BY OSTERBERG

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

A BILL FOR

1 An Act establishing a system of refunds and deposits on certain
2 pesticide containers and providing penalties.

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

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1 Section 1. NEW SECTION. 206A.1 DEFINITIONS.

2 As used in this chapter unless the context otherwise
3 requires:

4 1. "Pesticide" means a restricted use pesticide under
5 chapter 206 or section 455B.471.

6 2. "Pesticide container" means any sealed, rigid plastic,
7 or metal container containing a pesticide.

8 3. "Consumer" means any person who purchases a pesticide
9 in a pesticide container for use.

10 4. "Dealer" means any person who engages in the sale of
11 pesticides in pesticide containers to a consumer.

12 5. "Distributor" means any person who engages in the sale
13 of pesticides in pesticide containers to a dealer in this
14 state, including any manufacturer who engages in such sales.

15 6. "Manufacturer" means any person who bottles, cans, or
16 otherwise fills pesticide containers for sale to distributors
17 or dealers.

18 7. "Secretary" means the secretary of agriculture.

19 8. "Department" means the department of agriculture and
20 land stewardship.

21 Sec. 2. NEW SECTION. 206A.2 REFUND VALUES.

22 1. A refund value shall be paid by the consumer on each
23 beverage container sold in this state by a dealer for use off
24 the premises. The refund value shall be two dollars for
25 pesticide containers with two gallons or less of volume, five
26 dollars for pesticide containers with more than two gallons
27 and not more than nine gallons of volume, and ten dollars for
28 pesticide containers with more than nine gallons of volume.
29 Upon return of the empty beverage container upon which a
30 refund value has been paid to the dealer, and acceptance of
31 the empty pesticide container by the dealer, the dealer shall
32 return the amount of the refund value to the consumer.

33 2. In addition to the refund value provided in subsection
34 1, a dealer who redeems empty beverage containers shall be
35 reimbursed by the distributor required to accept the empty

1 beverage containers an amount which is twenty percent of the
2 refund value per container.

3 Sec. 3. NEW SECTION. 206A.3 PAYMENT OF REFUND VALUE.

4 Except as provided in section 206A.4:

5 1. A dealer shall not refuse to accept from a consumer any
6 empty pesticide container of the kind, size, and brand sold by
7 the dealer, or refuse to pay to the consumer the refund value
8 of a pesticide container as provided under section 206A.2.

9 2. A distributor shall accept and pick up from a dealer
10 served by the distributor at least weekly, or when the
11 distributor delivers the pesticide product, if deliveries are
12 less frequent than weekly, any empty pesticide container of
13 the kind, size, and brand sold by the distributor, and shall
14 pay to the dealer the refund value of a pesticide container
15 and the reimbursement as provided under section 206A.2 within
16 one week following pickup of the containers or when the dealer
17 normally pays the distributor for the deposit on pesticide
18 products purchased from the distributor if less frequent than
19 weekly.

20 3. A distributor shall not be required to pay to a
21 manufacturer a deposit or refund value on a pesticide
22 container.

23 Sec. 4. NEW SECTION. 206A.4 REFUSAL TO ACCEPT
24 CONTAINERS.

25 A dealer, a distributor, or a manufacturer may refuse to
26 accept any empty pesticide container which does not have
27 stated on it a refund value as provided under section 206A.2.

28 Sec. 5. NEW SECTION. 206A.5 REFUND VALUE STATED ON
29 CONTAINER -- EXCEPTIONS.

30 1. Each pesticide container sold or offered for sale in
31 this state by a dealer shall clearly indicate by embossing or
32 by a stamp, label, or other method securely affixed to the
33 container, the refund value of the container. The department
34 shall specify, by rule, the minimum size of the refund value
35 indication on the pesticide containers.

1 2. A person, except a distributor, shall not import into
2 this state after July 1, 1987 a pesticide container which does
3 not have securely affixed to the container the refund value
4 indication.

5 Sec. 6. NEW SECTION. 206A.6 RULES ADOPTED.

6 The department shall adopt rules necessary to carry out the
7 provisions of this chapter, subject to the provisions of
8 chapter 17A.

9 Sec. 7. NEW SECTION. 206A.7 PENALTIES.

10 1. A person violating section 206A.2, 206A.3, or 206A.5,
11 or a rule adopted under this chapter commits a simple
12 misdemeanor.

13 2. A distributor who collects or attempts to collect a
14 refund value on an empty pesticide container when the
15 distributor has paid the refund value on the container to a
16 dealer or consumer commits a fraudulent practice.

17 3. A person who does any of the following acts commits a
18 fraudulent practice:

19 a. Collects or attempts to collect the refund value on the
20 container a second time, with the knowledge that the refund
21 value has once been paid by the distributor to a dealer or
22 consumer.

23 b. Manufactures, sells, possesses, or applies a false or
24 counterfeit label or indication which shows or purports to
25 show a refund value for a pesticide container, with intent to
26 use the false or counterfeit label or indication.

27 c. Collects or attempts to collect a refund value on a
28 container with the use of a false or counterfeit label or
29 indication showing a refund value, knowing the label or
30 indication to be false or counterfeit.

31 4. As used in this section, a false or counterfeit label
32 or indication means a label or indication purporting to show a
33 valid refund value which has not been initially applied as
34 authorized by a distributor.

35 Sec. 8. NEW SECTION. 206A.8 DISTRIBUTORS' AGREEMENTS

1 AUTHORIZED.

2 A distributor may enter into a contract or agreement with
3 any other distributor, manufacturer, or person for the purpose
4 of collecting or paying the refund value on, or disposing of,
5 pesticide containers as provided in this chapter.

6

EXPLANATION

7 This bill proposes a deposit system for pesticide
8 containers somewhat similar to that for beverage containers.

9 The bill would apply to containers of pesticides which are
10 restricted use pesticides under chapter 206 or section
11 455B.471. The bill applies only to metal and plastic
12 containers and does not apply to paper or cardboard
13 containers.

14 The bill establishes a deposit system similar to that
15 established for beverage containers. The deposit amounts
16 proposed are two dollars for containers of two gallons or
17 less, five dollars for containers of more than two to nine
18 gallons, and ten dollars for containers of more than nine
19 gallons of pesticide. The bill also provides for a redemption
20 value of twenty percent of the deposit amount for returns of
21 containers from dealers to distributors.

22 The bill requires dealers to accept the return of the type
23 of containers they sell from consumers and requires
24 distributors to accept them from dealers. The bill does not
25 establish a system of redemption centers or authorize dealers
26 to refuse to accept a container by virtue of a contract with a
27 redemption center.

28 The bill requires a sticker or other approved method which
29 states the deposit amount on the pesticide containers sold in
30 this state.

31 The bill establishes the department of agriculture and land
32 stewardship as the administering agency.

33 Penalties for violations of the bill's requirements are
34 provided.

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