TERRY E. BRANSTAD
GOVERNOR

OFFICE OF THE GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

May 16, 2016

The Honorable Paul Pate
Secretary of State of Iowa
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 2464, an Act relating to environmental protection by modifying and eliminating allocations from the statutory allocations fund to the Iowa comprehensive petroleum underground storage tank fund and the renewable fuel infrastructure fund, making related changes, including changes related to the repeal of the environmental protection charge on petroleum diminution, and including effective date provisions.

The above House File is hereby approved this date.

Sincerely,

Terry E. Branstad

Terry E. Branstad
Governor

cc: Secretary of the Senate
Clerk of the House

House File 2464

AN ACT

RELATING TO ENVIRONMENTAL PROTECTION BY MODIFYING AND ELIMINATING ALLOCATIONS FROM THE STATUTORY ALLOCATIONS FUND TO THE IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND AND THE RENEWABLE FUEL INFRASTRUCTURE FUND, MAKING RELATED CHANGES, INCLUDING CHANGES RELATED TO THE REPEAL OF THE ENVIRONMENTAL PROTECTION CHARGE ON PETROLEUM DIMINUTION, AND INCLUDING EFFECTIVE DATE PROVISIONS.

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

DIVISION I

UNDERGROUND STORAGE TANK FUND AND RENEWABLE FUEL INFRASTRUCTURE FUND ALLOCATIONS

Section 1. Section 321.145, subsection 2, paragraph a, Code 2016, as amended by division II of this Act, is amended by striking the paragraph.

Sec. 2. Section 321.145, subsection 2, paragraph b, Code 2016, is amended to read as follows:

b. Moneys ~~remaining after the operation of paragraph "a"~~ shall be credited in order of priority as follows:

(1) An amount equal to four percent of the revenue from the operation of section 321.105A, subsection 2, shall be credited to the department, to be used for purposes of public transit assistance under chapter 324A.

(2) An amount equal to two dollars per year of license validity for each issued or renewed driver's license which is valid for the operation of a motorcycle shall be credited to

the motorcycle rider education fund established under section 321.179.

(3) The amounts required to be transferred pursuant to section 321.34 from revenues available under this subsection shall be transferred and credited as provided in section 321.34, subsections 7, 10, 10A, 11, 11A, 11B, 13, 16, 17, 18, 19, 20, 20A, 20B, 20C, 21, 22, 23, 24, 25, and 26 for the various purposes specified in those subsections.

Sec. 3. Section 455B.302, unnumbered paragraph 3, Code 2016, is amended to read as follows:

A city or county which provides closure or postclosure care on the premises of a sanitary landfill owned by a private agency, shall have a lien upon the property to secure payment for the amount of materials and labor expended by the city or county to perform the required closure or postclosure care on the premises. The lien shall be recordable and collectable in the same manner as provided in section 424.11, Code 2016. The lien shall attach at the time the city or county incurs expenses to provide closure or postclosure care on the premises of the sanitary landfill. The lien shall be valid as against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, only upon filing a notice of the lien with the recorder of the county in which the property is located. Upon payment, the city or county shall release the lien. If no lien has been recorded at the time the property is sold or transferred, the property shall not be subject to a lien or claim for any closure or postclosure costs incurred by the city or county.

Sec. 4. Section 455B.392, subsection 7, paragraph d, Code 2016, is amended to read as follows:

d. Cleanup expenses incurred by the state or a political subdivision shall be a lien upon the real estate constituting the hazardous condition site, recordable and collectable in the same manner as provided for in section 424.11, Code 2016, subject to the terms of this subsection. The lien shall attach at the time the state or a political subdivision incurs expenses to clean up the hazardous condition site. The lien shall be valid as against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the

lien, only when a notice of the lien is filed with the recorder of the county in which the property is located. Upon payment by the person to the state or a political subdivision, of the amount specified in this subsection, the state or a political subdivision shall release the lien. If no lien has been recorded at the time the person sells or transfers the property, then the person shall not be liable for any cleanup costs incurred by the state or a political subdivision.

Sec. 5. Section 455G.1, subsection 2, unnumbered paragraph 1, Code 2016, is amended to read as follows:

This subchapter applies to petroleum underground storage tanks for which an owner or operator is required to maintain proof of financial responsibility under federal or state law, from the effective date of the regulation of the federal environmental protection agency governing that tank, and not from the effective compliance date, unless the effective compliance date of the regulation is the effective date of the regulation. An owner or operator of a petroleum underground storage tank required by federal or state law to maintain proof of financial responsibility for that underground storage tank is subject to this subchapter ~~and chapter 424~~.

Sec. 6. Section 455G.3, subsection 1, Code 2016, is amended to read as follows:

1. The Iowa comprehensive petroleum underground storage tank fund is created as a separate fund in the state treasury, and any funds remaining in the fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Iowa comprehensive petroleum underground storage tank fund. Interest or other income earned by the fund shall be deposited in the fund. The fund shall include moneys credited to the fund under this section, section 321.145, subsection 2, paragraph *"a"*, Code 2016, and sections 455G.8 and 455G.9, and section 455G.11, Code 2003, and other funds which by law may be credited to the fund. The moneys in the fund are appropriated to and for the purposes of the board as provided in this subchapter. Amounts in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes set forth in this subchapter. The treasurer of state shall act as custodian

of the fund and disburse amounts contained in it as directed by the board including automatic disbursements of funds as received pursuant to the terms of bond indentures and documents and security provisions to trustees and custodians. The treasurer of state is authorized to invest the funds deposited in the fund at the direction of the board and subject to any limitations contained in any applicable bond proceedings. The income from such investment shall be credited to and deposited in the fund. The fund shall be administered by the board which shall make expenditures from the fund consistent with the purposes of the programs set out in this subchapter without further appropriation. The fund may be divided into different accounts with different depositories as determined by the board and to fulfill the purposes of this subchapter.

Sec. 7. Section 455G.3, subsection 5, Code 2016, is amended by striking the subsection.

Sec. 8. Section 455G.4, subsection 3, paragraph b, Code 2016, is amended by striking the paragraph.

Sec. 9. Section 455G.5, unnumbered paragraphs 2 and 3, Code 2016, are amended to read as follows:

The board may enter into a contract or an agreement authorized under chapter 28E with a private agency or person, the department of natural resources, the Iowa finance authority, the department of administrative services, the department of revenue, other departments, agencies, or governmental subdivisions of this state, another state, or the United States, in connection with its administration and implementation of this subchapter or chapter ~~424 or~~ 455B.

The board may reimburse a contractor, public or private, retained pursuant to this section for expenses incurred in the execution of a contract or agreement. Reimbursable expenses include, by way of example, but not exclusion, the costs of ~~collecting the environmental protection charge or~~ administering specific delegated duties or powers of the board.

Sec. 10. Section 455G.6, subsection 4, Code 2016, is amended to read as follows:

4. Grant a mortgage, lien, pledge, assignment, or other encumbrance on one or more improvements, revenues, asset of right, accounts, or funds established or received in connection

with the fund, including revenues derived from the moneys credited under section 321.145, subsection 2, paragraph *"a"*, Code 2016, and deposited in the fund or an account of the fund.

Sec. 11. Section 455G.8, subsection 2, Code 2016, is amended to read as follows:

2. *Statutory allocations fund.* The moneys credited from the statutory allocations fund under section 321.145, subsection 2, paragraph *"a"*, Code 2016, shall be allocated, consistent with this subchapter, among the fund's accounts, for debt service and other fund expenses, according to the fund budget, resolution, trust agreement, or other instrument prepared or entered into by the board or treasurer of state under direction of the board.

Sec. 12. Section 455G.9, subsection 5, paragraph a, Code 2016, is amended to read as follows:

a. If an owner or operator ceases to own or operate a tank site for which remedial account benefits were received within ten years of the receipt of any account benefit and sells or transfers a property interest in the tank site for an amount which exceeds one hundred twenty percent of the precorrective action value, adjusted for equipment and capital improvements, the owner or operator shall refund to the remedial account an amount equal to ninety percent of the amount in excess of one hundred twenty percent of the precorrective action value up to a maximum of the expenses incurred by the remedial account associated with the tank site plus interest, equal to the interest for the most recent twelve-month period for the most recent bond issue for the fund, on the expenses incurred, compounded annually. An owner or operator under this subsection shall notify the board of the sale or transfer of the property interest in the tank site. Expenses incurred by the fund are a lien upon the property recordable and collectible in the same manner as the lien provided for in section 424.11, Code 2016, at the time of sale or transfer, subject to the terms of this section.

Sec. 13. Section 455G.9, subsections 7 and 10, Code 2016, are amended to read as follows:

7. *Expenses of cleanup not required.* When an owner or operator who is eligible for benefits under this subchapter

is allowed by the department of natural resources to monitor in place, the expenses incurred for cleanup beyond the level required by the department of natural resources may be covered under any of the accounts established under the fund only if approved by the board as cost-effective relative to the department accepted monitoring plan or relative to the repeal date specified in section 424.19, Code 2016. The cleanup expenses incurred for work completed beyond what is required is the responsibility of the person contracting for the excess cleanup. The board shall seek to terminate the responsible party's environmental liabilities at such sites prior to the board ceasing operation.

10. *Expenses incurred by governmental subdivisions and public works utilities.* The board shall adopt rules for reimbursement for reasonable expenses incurred by a governmental subdivision or public works utility for sampling, treating, handling, or disposing, as required by the department, of petroleum-contaminated soil and groundwater encountered in a public right-of-way during installation, maintenance, or repair of a utility or public improvement. The board may seek full recovery from a responsible party liable for the release for such expenses and for all other costs and reasonable attorney fees and costs of litigation for which moneys are expended by the fund. Any expense described in this subsection incurred by the fund constitutes a lien upon the property from which the release occurred. A lien shall be recorded and an expense shall be collected in the same manner as provided in section 424.11, Code 2016.

Sec. 14. Section 455G.13, subsection 5, Code 2016, is amended to read as follows:

5. *Lien on tank site.* Any amount for which an owner or operator is liable to the fund, if not paid when due, by statute, rule, or contract, or determination of liability by the board or department of natural resources after hearing, shall constitute a lien upon the real property where the tank, which was the subject of corrective action, is situated, and the liability shall be collected in the same manner as the environmental protection charge pursuant to section 424.11, Code 2016.

Sec. 15. EFFECTIVE DATE. This division of this Act takes effect December 31, 2016.

DIVISION II

RENEWABLE FUEL INFRASTRUCTURE FUND — ENVIRONMENTAL PROTECTION CHARGE ON PETROLEUM DIMINUTION REPEAL

Sec. 16. Section 321.145, subsection 2, paragraph a, subparagraph (2), Code 2016, is amended to read as follows:

(2) Second, ~~seven~~ one million five hundred ~~fifty~~ thousand dollars per quarter shall be deposited into and credited to the renewable fuel infrastructure fund created in section 159A.16, and the moneys so deposited are a continuing appropriation for expenditure under chapter 159A, subchapter III, and moneys so appropriated shall not be used for other purposes.

Sec. 17. Section 424.19, Code 2016, is amended to read as follows:

424.19 Future repeal.

This chapter is repealed effective ~~June 30~~ December 31, 2016.

Sec. 18. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Linda Upmeyer

LINDA UPMEYER
Speaker of the House

Pam Jochum

PAM JOCHUM
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2464, Eighty-sixth General Assembly.

Carmine Boal

CARMINE BOAL
Chief Clerk of the House

Approved May 16, 2016

Terry E Branstad

TERRY E. BRANSTAD
Governor