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SENATE FILE 2166
BY COMMITTEE ON ENERGY AND
ENVIRONMENT
Approved (p. 307)
(Formerly SSB 2051)

Passed Senate, Date 2-18-86 (p. 344) Passed House, Date _____
Vote: Ayes 43 Nays 1 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

- 1 An Act relating to the authority of the department of water, air
- 2 and waste management to remove and compel removal of hazardous
- 3 substances or hazardous wastes.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2166

S-5068

- 1 Amend Senate File 2166 as follows:
- 2 1. Page 2, line 7, by striking the words
- 3 "HAZARDOUS-WASTE" and inserting the following:
- 4 "HAZARDOUS WASTE SUBSTANCE".
- 5 2. Page 2, line 8, by striking the words
- 6 "hazardous-waste" and inserting the following:
- 7 "hazardous waste substance".
- 8 3. Page 3, line 33, by striking the words
- 9 "HAZARDOUS-WASTE" and inserting the following:
- 10 "HAZARDOUS WASTE SUBSTANCE".
- 11 4. Page 4, line 2, by striking the words
- 12 "hazardous-waste" and inserting the following:
- 13 "hazardous waste substance".

S-5068 Filed February 17, 1986
Adopted 2/14/86 (p. 344)

BY COLTON

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TLSB 8177SF 71
rr/jw/5

1 Section 1. Section 455B.381, subsection 2, Code 1985, is
2 amended to read as follows:

3 2. "Hazardous condition" means any situation involving the
4 actual, imminent, or probable spillage, leakage, or release of
5 a hazardous substance onto the land, into a water of the
6 state, or into the atmosphere, which creates an immediate or
7 potential danger to the public health or safety or to the
8 environment. For purposes of this division, a site which is
9 an abandoned or uncontrolled disposal site as defined in
10 section 455B.411, subsection 1, is a hazardous condition.

11 Sec. 2. Section 455B.411, subsections 1 and 2, Code 1985,
12 are amended to read as follows:

13 1. "Abandoned or uncontrolled hazardous-waste disposal
14 site" means real property which has been used for the disposal
15 of hazardous waste or hazardous substances either illegally or
16 prior to regulation under this chapter.

17 2. "Disposal" means the discharge, deposit, injection,
18 dumping, spilling, leaking, or placing of a hazardous waste or
19 hazardous substance into or on land or water so that the
20 hazardous waste or hazardous substance or a constituent of the
21 hazardous waste or hazardous substance may enter the
22 environment or be emitted into the air or discharged into any
23 waters, including ground waters.

24 Sec. 3. Section 455B.411, Code 1985, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 11. "Hazardous substance" means a
27 hazardous substance as defined in 42 U.S.C. § 9601 of the
28 federal Comprehensive Environmental Response, Compensation,
29 and Liability Act and any element, compound, mixture,
30 solution, or substance designated pursuant to 40 C.F.R. 302.4.

31 Sec. 4. Section 455B.412, subsection 2, Code 1985, is
32 amended to read as follows:

33 2. Adopt rules establishing criteria for identifying the
34 characteristics of hazardous wastes and listing hazardous
35 wastes that are subject to ~~sections-455B:411-to-455B:421~~ this

1 part. The commission shall consider toxicity, persistence and
2 degradability in nature, potential for accumulation in tissue,
3 and related factors including flammability, corrosiveness, and
4 other hazardous characteristics.

5 Sec. 5. Section 455B.423, Code 1985, is amended to read as
6 follows:

7 455B.423 HAZARDOUS-WASTE REMEDIAL FUND.

8 1. A hazardous-waste remedial fund is created within the
9 state treasury. Moneys received from fees, penalties, general
10 revenue, federal funds, gifts, bequests, donations, or other
11 moneys so designated shall be deposited in the state treasury
12 to the credit of the fund. Any unexpended balance in the
13 hazardous-waste remedial fund at the end of each fiscal year
14 shall be retained in the fund. However, any unexpended
15 balance shall be transferred to the general fund to replace
16 funds appropriated from the general fund during fiscal year
17 1985 and fiscal year 1986 for the purposes for which
18 expenditures from the hazardous-waste remedial fund are
19 allowed.

20 2. The executive director may use the fund for any of the
21 following purposes:

22 a. Administrative services for the identification,
23 assessment and cleanup of abandoned or uncontrolled sites.

24 b. Payments to other state agencies for services
25 consistent with the management of abandoned or uncontrolled
26 hazardous-waste disposal sites.

27 c. Emergency response activities as provided in part 4 of
28 this division.

29 d. Financing the nonfederal share of the cost of cleanup
30 and site rehabilitation activities as well as postclosure
31 operation and maintenance costs, pursuant to the federal
32 Comprehensive Environmental Response, Compensation and
33 Liability Act of 1980.

34 e. Financing the cost of cleanup and site rehabilitation
35 activities as well as postclosure operation and maintenance

1 costs of abandoned or uncontrolled hazardous-waste disposal
2 sites that do not qualify for federal cost-sharing pursuant to
3 the federal Comprehensive Environmental Response, Compensation
4 and Liability Act of 1980.

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

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

12 3. Neither the state nor its officers, employees, or
13 agents are liable for an injury caused by a dangerous
14 condition at an abandoned or uncontrolled site unless the
15 condition is the result of gross negligence on the part of the
16 state, its officers, employees, or agents.

17 4. The executive director may contract with any person to
18 perform the acts authorized in this section.

19 5. Moneys shall not be used from the fund for abandoned
20 site cleanup unless the executive director has made all
21 reasonable efforts to secure voluntary agreement to pay the
22 costs of necessary remedial actions from owners or operators
23 of abandoned or uncontrolled hazardous-waste disposal sites or
24 other responsible persons.

25 6. The executive director shall make all reasonable
26 efforts to recover the full amount of funds moneys expended
27 from the fund through litigation or cooperative agreements
28 with responsible persons. Moneys recovered pursuant to this
29 subsection shall be deposited with the treasurer of state and
30 credited to the hazardous-waste remedial fund.

31 Sec. 6. Section 455B.425, Code 1985, is amended to read as
32 follows:

33 455B.425 ANNUAL REPORT ON HAZARDOUS-WASTE REMEDIAL FUND.

34 The executive director shall annually on January 1 give a
35 full accounting of moneys received, moneys expended, sources

1 and recipients, and purposes of the expenditures for the
2 preceding fiscal year in the hazardous-waste remedial fund to
3 the general assembly and the governor.

4 Sec. 7. Section 455B.426, Code 1985, is amended to read as
5 follows:

6 455B.426 REGISTRY OF ABANDONED OR UNCONTROLLED DISPOSAL
7 SITES.

8 1. The executive director shall maintain and make
9 available for public inspection a registry of confirmed
10 abandoned or uncontrolled hazardous-waste disposal sites in
11 the state. The executive director shall take all necessary
12 action to ensure that the registry provides a complete listing
13 of all sites. The registry shall contain the exact location
14 of each site and identify the types of waste found at each
15 site.

16 2. The executive director shall investigate all known or
17 suspected abandoned or uncontrolled disposal sites and
18 determine whether each site should be included in the
19 registry. In the evaluation of known or suspected abandoned
20 or uncontrolled disposal sites, the executive director may
21 enter private property and perform tests and analyses in the
22 manner provided in section 455B.416.

23 Sec. 8. Section 455B.427, Code 1985, is amended to read as
24 follows:

25 455B.427 ANNUAL REPORT ON ABANDONED OR UNCONTROLLED
26 HAZARDOUS-WASTE DISPOSAL SITES.

27 1. The executive director shall annually on January 1
28 transmit a report to the general assembly and the governor
29 identifying all abandoned or uncontrolled hazardous-waste
30 disposal sites in the state listed on the registry. A copy of
31 the report shall also be sent to the board of supervisors of
32 every county containing a site.

33 2. The annual report shall include, but is not limited to,
34 the following information for each site:

35 a. A general description of the site, including the name

1 and address of the site, the type and quantity of the
2 hazardous waste or hazardous substance disposed of at the site
3 and the name of the current owners of the site.

4 b. A summary of significant environmental problems at or
5 near the site.

6 c. A summary of serious health problems in the immediate
7 vicinity of the site and health problems deemed by the
8 executive director in cooperation with the state department of
9 health to be related to conditions at the site.

10 d. The status of testing, monitoring, or remedial actions
11 in progress or recommended by the executive director.

12 e. The status of pending legal actions and federal, state,
13 or local government permits concerning the site.

14 f. The relative priority for remedial action at each site.

15 g. The proximity of the site to private residences, public
16 buildings or property, school facilities, places of work, or
17 other areas where individuals may be regularly present.

18 3. In developing and maintaining the annual report, the
19 executive director shall assess the relative priority of the
20 need for action at each site to remedy environmental and
21 health problems resulting from the presence of hazardous
22 wastes or hazardous substances at the sites. In making its
23 assessments of relative priority, the executive director, in
24 cooperation with the state department of health on matters
25 relating to public health, shall place every site in one of
26 the following classifications:

27 a. Causing or presenting an imminent danger of causing
28 irreversible or irreparable damage to the public health or
29 environment--immediate action required.

30 b. Significant threat to the environment--action required.

31 c. Not a significant threat to the public health or
32 environment--action may be deferred.

33 d. Site properly closed--requires continued management.

34 e. Site properly closed, no evidence of present or
35 potential adverse impact--no further action required.

1 4. A site classified as properly closed under subsection
2 3, paragraph "e", shall be removed from all subsequent annual
3 reports and the register of abandoned or uncontrolled disposal
4 sites.

5 5. The executive director shall work with the department
6 of health when assessing the effects of an abandoned or
7 uncontrolled disposal site on human health.

8 Sec. 9. Section 455B.428, Code 1985, is amended to read as
9 follows:

10 455B.428 INVESTIGATION OF SITES.

11 1. The executive director shall investigate each abandoned
12 or uncontrolled hazardous-waste disposal site listed in the
13 registry to determine its relative priority.

14 2. The executive director shall identify each abandoned or
15 uncontrolled disposal site by providing all of the following:

16 a. The address and site boundaries.

17 b. The time period of use for disposal of hazardous waste
18 or hazardous substances.

19 c. The name of the current owner and operator and names of
20 reported owners and operators during the time period of use
21 for disposal of hazardous waste or hazardous substances.

22 d. The names of persons responsible for the generation and
23 transportation of the hazardous waste or hazardous substances
24 disposed of at the site.

25 e. The type, quantity and manner of hazardous waste or
26 hazardous substances disposal.

27 3. When preliminary evidence suggests further assessment
28 is necessary, the executive director may assess any of the
29 following:

30 a. The depth of the water table at the site.

31 b. The nature of soils at the site.

32 c. The location, nature, and size of aquifers at the site.

33 d. The direction of present and historic groundwater flows
34 at the site.

35 e. The location and nature of surface waters at and near

1 the site.

2 f. The levels of contaminants in groundwater, surface
3 water, air, and soils at and near the site resulting from
4 hazardous wastes or hazardous substances disposed of at the
5 site.

6 g. The current quality of all drinking water drawn from or
7 distributed through the area in which the site is located, if
8 the executive director determines that water quality may have
9 been affected by the site.

10 4. The executive director shall maintain a site assessment
11 file for each site listed in the registry. The file shall
12 contain all information obtained pursuant to this section and
13 shall be open to the public. Information in the file may be
14 reproduced by any person at a charge not to exceed the actual
15 cost of reproduction for copies of file information.

16 Sec. 10. Section 455B.430, Code 1985, is amended to read
17 as follows:

18 455B.430 USE AND TRANSFER OF SITES -- PENALTY.

19 1. A person shall not substantially change the manner in
20 which an abandoned or uncontrolled hazardous-waste disposal
21 site on the registry pursuant to section 455B.426 is used
22 without the written approval of the executive director.

23 2. A person shall not sell, convey, or transfer title to
24 an abandoned or uncontrolled hazardous-waste disposal site
25 which is on the registry pursuant to section 455B.426 without
26 the written approval of the executive director. The executive
27 director shall respond to a request for a change of ownership
28 within thirty days of its receipt.

29 3. Decisions of the executive director concerning the use
30 or transfer of an abandoned or uncontrolled hazardous-waste
31 disposal site may be appealed in the manner provided in
32 section 455B.429.

33 4. If the executive director has reason to believe this
34 section has been violated, or is in imminent danger of being
35 violated, the executive director may institute a civil action

1 in district court for injunctive relief to prevent the
2 violation and for the assessment of a civil penalty not to
3 exceed one thousand dollars per day for each day of violation.
4 Moneys collected under this subsection shall be deposited in
5 the hazardous-waste remedial fund.

6 Sec. 11. Section 455B.431, Code 1985, is amended to read
7 as follows:

8 455B.431 RECORDING OF SITE DESIGNATION.

9 When the executive director places a site on the registry
10 as provided in section 455B.426, then the executive director
11 shall file with the county recorder a statement disclosing the
12 period during which the site was used as a hazardous waste or
13 hazardous substances disposal area. When the executive
14 director finds that a site on the registry has been properly
15 closed under section 455B.427, subsection 3, paragraph "e",
16 with no evidence of potential adverse impact, this finding
17 shall be filed with the county recorder. The finding shall
18 state that the executive director's finding does not warrant
19 to a future purchaser of the site that the site will be free
20 from any future adverse impacts as a result of use of the site
21 as a hazardous waste or hazardous substances disposal site.

22 EXPLANATION

23 This bill redefines those sites which meet the criteria to
24 be placed on the registry of abandoned or uncontrolled
25 hazardous waste disposal sites to include those sites at which
26 hazardous substances have been disposed of. This bill also
27 broadens the definition of "hazardous condition" to include
28 the immediate or potential danger to the environment.

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SENATE FILE 2166
BY COMMITTEE ON ENERGY AND
ENVIRONMENT

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 18, 1986)

_____ - New Language by the Senate

Passed Senate, Date 2-18-86 (p.344) Passed House, Date 2-6-86 (p.580)
Vote: Ayes 43 Nays 1 Vote: Ayes 96 Nays 2
Approved March 20, 1986 (p.813)

A BILL FOR

1 An Act relating to the authority of the department of water, air
2 and waste management to remove and compel removal of hazardous
3 substances or hazardous wastes.

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

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SF 2166

1 Section 1. Section 455B.381, subsection 2, Code 1985, is
2 amended to read as follows:

3 2. "Hazardous condition" means any situation involving the
4 actual, imminent, or probable spillage, leakage, or release of
5 a hazardous substance onto the land, into a water of the
6 state, or into the atmosphere, which creates an immediate or
7 potential danger to the public health or safety or to the
8 environment. For purposes of this division, a site which is
9 an abandoned or uncontrolled disposal site as defined in
10 section 455B.411, subsection 1, is a hazardous condition.

11 Sec. 2. Section 455B.411, subsections 1 and 2, Code 1985,
12 are amended to read as follows:

13 1. "Abandoned or uncontrolled hazardous-waste disposal
14 site" means real property which has been used for the disposal
15 of hazardous waste or hazardous substances either illegally or
16 prior to regulation under this chapter.

17 2. "Disposal" means the discharge, deposit, injection,
18 dumping, spilling, leaking, or placing of a hazardous waste or
19 hazardous substance into or on land or water so that the
20 hazardous waste or hazardous substance or a constituent of the
21 hazardous waste or hazardous substance may enter the
22 environment or be emitted into the air or discharged into any
23 waters, including ground waters.

24 Sec. 3. Section 455B.411, Code 1985, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 11. "Hazardous substance" means a
27 hazardous substance as defined in 42 U.S.C. § 9601 of the
28 federal Comprehensive Environmental Response, Compensation,
29 and Liability Act and any element, compound, mixture,
30 solution, or substance designated pursuant to 40 C.F.R. 302.4.

31 Sec. 4. Section 455B.412, subsection 2, Code 1985, is
32 amended to read as follows:

33 2. Adopt rules establishing criteria for identifying the
34 characteristics of hazardous wastes and listing hazardous
35 wastes that are subject to ~~sections-455B-411-to-455B-421~~ this

1 part. The commission shall consider toxicity, persistence and
2 degradability in nature, potential for accumulation in tissue,
3 and related factors including flammability, corrosiveness, and
4 other hazardous characteristics.

5 Sec. 5. Section 455B.423, Code 1985, is amended to read as
6 follows:

7 455B.423 HAZARDOUS WASTE SUBSTANCE REMEDIAL FUND.

8 1. A hazardous waste substance remedial fund is created
9 within the state treasury. Moneys received from fees,
10 penalties, general revenue, federal funds, gifts, bequests,
11 donations, or other moneys so designated shall be deposited in
12 the state treasury to the credit of the fund. Any unexpended
13 balance in the hazardous-waste remedial fund at the end of
14 each fiscal year shall be retained in the fund. However, any
15 unexpended balance shall be transferred to the general fund to
16 replace funds appropriated from the general fund during fiscal
17 year 1985 and fiscal year 1986 for the purposes for which
18 expenditures from the hazardous-waste remedial fund are
19 allowed.

20 2. The executive director may use the fund for any of the
21 following purposes:

22 a. Administrative services for the identification,
23 assessment and cleanup of abandoned or uncontrolled sites.

24 b. Payments to other state agencies for services
25 consistent with the management of abandoned or uncontrolled
26 hazardous-waste disposal sites.

27 c. Emergency response activities as provided in part 4 of
28 this division.

29 d. Financing the nonfederal share of the cost of cleanup
30 and site rehabilitation activities as well as postclosure
31 operation and maintenance costs, pursuant to the federal
32 Comprehensive Environmental Response, Compensation and
33 Liability Act of 1980.

34 e. Financing the cost of cleanup and site rehabilitation
35 activities as well as postclosure operation and maintenance

1 costs of abandoned or uncontrolled hazardous-waste disposal
2 sites that do not qualify for federal cost-sharing pursuant to
3 the federal Comprehensive Environmental Response, Compensation
4 and Liability Act of 1980.

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

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

12 3. Neither the state nor its officers, employees, or
13 agents are liable for an injury caused by a dangerous
14 condition at an abandoned or uncontrolled site unless the
15 condition is the result of gross negligence on the part of the
16 state, its officers, employees, or agents.

17 4. The executive director may contract with any person to
18 perform the acts authorized in this section.

19 5. Moneys shall not be used from the fund for abandoned
20 site cleanup unless the executive director has made all
21 reasonable efforts to secure voluntary agreement to pay the
22 costs of necessary remedial actions from owners or operators
23 of abandoned or uncontrolled hazardous-waste disposal sites or
24 other responsible persons.

25 6. The executive director shall make all reasonable
26 efforts to recover the full amount of funds moneys expended
27 from the fund through litigation or cooperative agreements
28 with responsible persons. Moneys recovered pursuant to this
29 subsection shall be deposited with the treasurer of state and
30 credited to the hazardous-waste remedial fund.

31 Sec. 6. Section 455B.425, Code 1985, is amended to read as
32 follows:

33 455B.425 ANNUAL REPORT ON HAZARDOUS WASTE SUBSTANCE
34 REMEDIAL FUND.

35 The executive director shall annually on January 1 give a

1 full accounting of moneys received, moneys expended, sources
2 and recipients, and purposes of the expenditures for the
3 preceding fiscal year in the hazardous waste substance
4 remedial fund to the general assembly and the governor.

5 Sec. 7. Section 455B.426, Code 1985, is amended to read as
6 follows:

7 455B.426 REGISTRY OF ABANDONED OR UNCONTROLLED DISPOSAL
8 SITES.

9 1. The executive director shall maintain and make
10 available for public inspection a registry of confirmed
11 abandoned or uncontrolled hazardous-waste disposal sites in
12 the state. The executive director shall take all necessary
13 action to ensure that the registry provides a complete listing
14 of all sites. The registry shall contain the exact location
15 of each site and identify the types of waste found at each
16 site.

17 2. The executive director shall investigate all known or
18 suspected abandoned or uncontrolled disposal sites and
19 determine whether each site should be included in the
20 registry. In the evaluation of known or suspected abandoned
21 or uncontrolled disposal sites, the executive director may
22 enter private property and perform tests and analyses in the
23 manner provided in section 455B.416.

24 Sec. 8. Section 455B.427, Code 1985, is amended to read as
25 follows:

26 455B.427 ANNUAL REPORT ON ABANDONED OR UNCONTROLLED
27 HAZARDOUS-WASTE DISPOSAL SITES.

28 1. The executive director shall annually on January 1
29 transmit a report to the general assembly and the governor
30 identifying all abandoned or uncontrolled hazardous-waste
31 disposal sites in the state listed on the registry. A copy of
32 the report shall also be sent to the board of supervisors of
33 every county containing a site.

34 2. The annual report shall include, but is not limited to,
35 the following information for each site:

- 1 a. A general description of the site, including the name
2 and address of the site, the type and quantity of the
3 hazardous waste or hazardous substance disposed of at the site
4 and the name of the current owners of the site.
- 5 b. A summary of significant environmental problems at or
6 near the site.
- 7 c. A summary of serious health problems in the immediate
8 vicinity of the site and health problems deemed by the
9 executive director in cooperation with the state department of
10 health to be related to conditions at the site.
- 11 d. The status of testing, monitoring, or remedial actions
12 in progress or recommended by the executive director.
- 13 e. The status of pending legal actions and federal, state,
14 or local government permits concerning the site.
- 15 f. The relative priority for remedial action at each site.
- 16 g. The proximity of the site to private residences, public
17 buildings or property, school facilities, places of work, or
18 other areas where individuals may be regularly present.
- 19 3. In developing and maintaining the annual report, the
20 executive director shall assess the relative priority of the
21 need for action at each site to remedy environmental and
22 health problems resulting from the presence of hazardous
23 wastes or hazardous substances at the sites. In making its
24 assessments of relative priority, the executive director, in
25 cooperation with the state department of health on matters
26 relating to public health, shall place every site in one of
27 the following classifications:
- 28 a. Causing or presenting an imminent danger of causing
29 irreversible or irreparable damage to the public health or
30 environment--immediate action required.
- 31 b. Significant threat to the environment--action required.
- 32 c. Not a significant threat to the public health or
33 environment--action may be deferred.
- 34 d. Site properly closed--requires continued management.
- 35 e. Site properly closed, no evidence of present or

1 potential adverse impact--no further action required.

2 4. A site classified as properly closed under subsection
3 3, paragraph "e", shall be removed from all subsequent annual
4 reports and the register of abandoned or uncontrolled disposal
5 sites.

6 5. The executive director shall work with the department
7 of health when assessing the effects of an abandoned or
8 uncontrolled disposal site on human health.

9 Sec. 9. Section 455B.428, Code 1985, is amended to read as
10 follows:

11 455B.428 INVESTIGATION OF SITES.

12 1. The executive director shall investigate each abandoned
13 or uncontrolled hazardous-waste disposal site listed in the
14 registry to determine its relative priority.

15 2. The executive director shall identify each abandoned or
16 uncontrolled disposal site by providing all of the following:

17 a. The address and site boundaries.

18 b. The time period of use for disposal of hazardous waste
19 or hazardous substances.

20 c. The name of the current owner and operator and names of
21 reported owners and operators during the time period of use
22 for disposal of hazardous waste or hazardous substances.

23 d. The names of persons responsible for the generation and
24 transportation of the hazardous waste or hazardous substances
25 disposed of at the site.

26 e. The type, quantity and manner of hazardous waste or
27 hazardous substances disposal.

28 3. When preliminary evidence suggests further assessment
29 is necessary, the executive director may assess any of the
30 following:

31 a. The depth of the water table at the site.

32 b. The nature of soils at the site.

33 c. The location, nature, and size of aquifers at the site.

34 d. The direction of present and historic groundwater flows
35 at the site.

1 e. The location and nature of surface waters at and near
2 the site.

3 f. The levels of contaminants in groundwater, surface
4 water, air, and soils at and near the site resulting from
5 hazardous wastes or hazardous substances disposed of at the
6 site.

7 g. The current quality of all drinking water drawn from or
8 distributed through the area in which the site is located, if
9 the executive director determines that water quality may have
10 been affected by the site.

11 4. The executive director shall maintain a site assessment
12 file for each site listed in the registry. The file shall
13 contain all information obtained pursuant to this section and
14 shall be open to the public. Information in the file may be
15 reproduced by any person at a charge not to exceed the actual
16 cost of reproduction for copies of file information.

17 Sec. 10. Section 455B.430, Code 1985, is amended to read
18 as follows:

19 455B.430 USE AND TRANSFER OF SITES -- PENALTY.

20 1. A person shall not substantially change the manner in
21 which an abandoned or uncontrolled hazardous-waste disposal
22 site on the registry pursuant to section 455B.426 is used
23 without the written approval of the executive director.

24 2. A person shall not sell, convey, or transfer title to
25 an abandoned or uncontrolled hazardous-waste disposal site
26 which is on the registry pursuant to section 455B.426 without
27 the written approval of the executive director. The executive
28 director shall respond to a request for a change of ownership
29 within thirty days of its receipt.

30 3. Decisions of the executive director concerning the use
31 or transfer of an abandoned or uncontrolled hazardous-waste
32 disposal site may be appealed in the manner provided in
33 section 455B.429.

34 4. If the executive director has reason to believe this
35 section has been violated, or is in imminent danger of being

1 violated, the executive director may institute a civil action
2 in district court for injunctive relief to prevent the
3 violation and for the assessment of a civil penalty not to
4 exceed one thousand dollars per day for each day of violation.
5 Moneys collected under this subsection shall be deposited in
6 the hazardous-waste remedial fund.

7 Sec. 11. Section 455B.431, Code 1985, is amended to read
8 as follows:

9 455B.431 RECORDING OF SITE DESIGNATION.

10 When the executive director places a site on the registry
11 as provided in section 455B.426, then the executive director
12 shall file with the county recorder a statement disclosing the
13 period during which the site was used as a hazardous waste or
14 hazardous substances disposal area. When the executive
15 director finds that a site on the registry has been properly
16 closed under section 455B.427, subsection 3, paragraph "e",
17 with no evidence of potential adverse impact, this finding
18 shall be filed with the county recorder. The finding shall
19 state that the executive director's finding does not warrant
20 to a future purchaser of the site that the site will be free
21 from any future adverse impacts as a result of use of the site
22 as a hazardous waste or hazardous substances disposal site.

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SSB 2051

SSB 2051

ENERGY AND ENVIRONMENT: Colton, Chair; Brown and Rife

*Naid
SF 2166*

SENATE/HOUSE FILE 2166

BY (PROPOSED COMMITTEE ON

ENERGY AND ENVIRONMENT

AND COMMITTEE ON ENERGY

AND ENVIRONMENTAL PRO-

TECTION BILL BY THE

HAZARDOUS WASTE DISPOSAL

SITE STUDY COMMITTEE)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the authority of the department of water, air
2 and waste management to remove and compel removal of hazardous
3 substances or hazardous wastes.

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

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1 Section 1. Section 455B.381, subsection 2, Code 1985, is
2 amended to read as follows:

3 2. "Hazardous condition" means any situation involving the
4 actual, imminent, or probable spillage, leakage, or release of
5 a hazardous substance onto the land, into a water of the
6 state, or into the atmosphere, which creates an immediate or
7 potential danger to the public health or safety or to the
8 environment. For purposes of this division, a site which is
9 an abandoned or uncontrolled disposal site as defined in
10 section 455B.411, subsection 1, is a hazardous condition.

11 Sec. 2. Section 455B.411, subsections 1 and 2, Code 1985,
12 are amended to read as follows:

13 1. "Abandoned or uncontrolled hazardous-waste disposal
14 site" means real property which has been used for the disposal
15 of hazardous waste or hazardous substances either illegally or
16 prior to regulation under this chapter.

17 2. "Disposal" means the discharge, deposit, injection,
18 dumping, spilling, leaking, or placing of a hazardous waste or
19 hazardous substance into or on land or water so that the
20 hazardous waste or hazardous substance or a constituent of the
21 hazardous waste or hazardous substance may enter the
22 environment or be emitted into the air or discharged into any
23 waters, including ground waters.

24 Sec. 3. Section 455B.411, Code 1985, is amended by adding
25 the following new subsection:

26 NEW SUBSECTION. 11. "Hazardous substance" means a
27 hazardous substance as defined in 42 U.S.C. § 9601 of the
28 federal Comprehensive Environmental Response, Compensation,
29 and Liability Act and any element, compound, mixture,
30 solution, or substance designated pursuant to 40 C.F.R. 302.4.

31 Sec. 4. Section 455B.412, subsection 2, Code 1985, is
32 amended to read as follows:

33 2. Adopt rules establishing criteria for identifying the
34 characteristics of hazardous wastes and listing hazardous
35 wastes that are subject to ~~sections-455B-411-to-455B-421~~ this

1 part. The commission shall consider toxicity, persistence and
2 degradability in nature, potential for accumulation in tissue,
3 and related factors including flammability, corrosiveness, and
4 other hazardous characteristics.

5 Sec. 5. Section 455B.423, Code 1985, is amended to read as
6 follows:

7 455B.423 HAZARDOUS-WASTE REMEDIAL FUND.

8 1. A hazardous-waste remedial fund is created within the
9 state treasury. Moneys received from fees, penalties, general
10 revenue, federal funds, gifts, bequests, donations, or other
11 moneys so designated shall be deposited in the state treasury
12 to the credit of the fund. Any unexpended balance in the
13 hazardous-waste remedial fund at the end of each fiscal year
14 shall be retained in the fund. However, any unexpended
15 balance shall be transferred to the general fund to replace
16 funds appropriated from the general fund during fiscal year
17 1985 and fiscal year 1986 for the purposes for which
18 expenditures from the hazardous-waste remedial fund are
19 allowed.

20 2. The executive director may use the fund for any of the
21 following purposes:

22 a. Administrative services for the identification,
23 assessment and cleanup of abandoned or uncontrolled sites.

24 b. Payments to other state agencies for services
25 consistent with the management of abandoned or uncontrolled
26 hazardous-waste disposal sites.

27 c. Emergency response activities as provided in part 4 of
28 this division.

29 d. Financing the nonfederal share of the cost of cleanup
30 and site rehabilitation activities as well as postclosure
31 operation and maintenance costs, pursuant to the federal
32 Comprehensive Environmental Response, Compensation and
33 Liability Act of 1980.

34 e. Financing the cost of cleanup and site rehabilitation
35 activities as well as postclosure operation and maintenance

1 costs of abandoned or uncontrolled hazardous-waste disposal
2 sites that do not qualify for federal cost-sharing pursuant to
3 the federal Comprehensive Environmental Response, Compensation
4 and Liability Act of 1980.

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

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

12 3. Neither the state nor its officers, employees, or
13 agents are liable for an injury caused by a dangerous
14 condition at an abandoned or uncontrolled site unless the
15 condition is the result of gross negligence on the part of the
16 state, its officers, employees, or agents.

17 4. The executive director may contract with any person to
18 perform the acts authorized in this section.

19 5. Moneys shall not be used from the fund for abandoned
20 site cleanup unless the executive director has made all
21 reasonable efforts to secure voluntary agreement to pay the
22 costs of necessary remedial actions from owners or operators
23 of abandoned or uncontrolled hazardous-waste disposal sites or
24 other responsible persons.

25 6. The executive director shall make all reasonable
26 efforts to recover the full amount of funds moneys expended
27 from the fund through litigation or cooperative agreements
28 with responsible persons. Moneys recovered pursuant to this
29 subsection shall be deposited with the treasurer of state and
30 credited to the hazardous-waste remedial fund.

31 Sec. 6. Section 455B.425, Code 1985, is amended to read as
32 follows:

33 455B.425 ANNUAL REPORT ON HAZARDOUS-WASTE REMEDIAL FUND.

34 The executive director shall annually on January 1 give a
35 full accounting of moneys received, moneys expended, sources

1 and recipients, and purposes of the expenditures for the
2 preceding fiscal year in the hazardous-waste remedial fund to
3 the general assembly and the governor.

4 Sec. 7. Section 455B.426, Code 1985, is amended to read as
5 follows:

6 455B.426 REGISTRY OF ABANDONED OR UNCONTROLLED DISPOSAL
7 SITES.

8 1. The executive director shall maintain and make
9 available for public inspection a registry of confirmed
10 abandoned or uncontrolled hazardous-waste disposal sites in
11 the state. The executive director shall take all necessary
12 action to ensure that the registry provides a complete listing
13 of all sites. The registry shall contain the exact location
14 of each site and identify the types of waste found at each
15 site.

16 2. The executive director shall investigate all known or
17 suspected abandoned or uncontrolled disposal sites and
18 determine whether each site should be included in the
19 registry. In the evaluation of known or suspected abandoned
20 or uncontrolled disposal sites, the executive director may
21 enter private property and perform tests and analyses in the
22 manner provided in section 455B.416.

23 Sec. 8. Section 455B.427, Code 1985, is amended to read as
24 follows:

25 455B.427 ANNUAL REPORT ON ABANDONED OR UNCONTROLLED
26 HAZARDOUS-WASTE DISPOSAL SITES.

27 1. The executive director shall annually on January 1
28 transmit a report to the general assembly and the governor
29 identifying all abandoned or uncontrolled hazardous-waste
30 disposal sites in the state listed on the registry. A copy of
31 the report shall also be sent to the board of supervisors of
32 every county containing a site.

33 2. The annual report shall include, but is not limited to,
34 the following information for each site:

35 a. A general description of the site, including the name

1 and address of the site, the type and quantity of the
2 hazardous waste or hazardous substance disposed of at the site
3 and the name of the current owners of the site.

4 b. A summary of significant environmental problems at or
5 near the site.

6 c. A summary of serious health problems in the immediate
7 vicinity of the site and health problems deemed by the
8 executive director in cooperation with the state department of
9 health to be related to conditions at the site.

10 d. The status of testing, monitoring, or remedial actions
11 in progress or recommended by the executive director.

12 e. The status of pending legal actions and federal, state,
13 or local government permits concerning the site.

14 f. The relative priority for remedial action at each site.

15 g. The proximity of the site to private residences, public
16 buildings or property, school facilities, places of work, or
17 other areas where individuals may be regularly present.

18 3. In developing and maintaining the annual report, the
19 executive director shall assess the relative priority of the
20 need for action at each site to remedy environmental and
21 health problems resulting from the presence of hazardous
22 wastes or hazardous substances at the sites. In making its
23 assessments of relative priority, the executive director, in
24 cooperation with the state department of health on matters
25 relating to public health, shall place every site in one of
26 the following classifications:

27 a. Causing or presenting an imminent danger of causing
28 irreversible or irreparable damage to the public health or
29 environment--immediate action required.

30 b. Significant threat to the environment--action required.

31 c. Not a significant threat to the public health or
32 environment--action may be deferred.

33 d. Site properly closed--requires continued management.

34 e. Site properly closed, no evidence of present or
35 potential adverse impact--no further action required.

1 4. A site classified as properly closed under subsection
2 3, paragraph "e", shall be removed from all subsequent annual
3 reports and the register of abandoned or uncontrolled disposal
4 sites.

5 5. The executive director shall work with the department
6 of health when assessing the effects of an abandoned or
7 uncontrolled disposal site on human health.

8 Sec. 9. Section 455B.428, Code 1985, is amended to read as
9 follows:

10 455B.428 INVESTIGATION OF SITES.

11 1. The executive director shall investigate each abandoned
12 or uncontrolled hazardous-waste disposal site listed in the
13 registry to determine its relative priority.

14 2. The executive director shall identify each abandoned or
15 uncontrolled disposal site by providing all of the following:

16 a. The address and site boundaries.

17 b. The time period of use for disposal of hazardous waste
18 or hazardous substances.

19 c. The name of the current owner and operator and names of
20 reported owners and operators during the time period of use
21 for disposal of hazardous waste or hazardous substances.

22 d. The names of persons responsible for the generation and
23 transportation of the hazardous waste or hazardous substances
24 disposed of at the site.

25 e. The type, quantity and manner of hazardous waste or
26 hazardous substances disposal.

27 3. When preliminary evidence suggests further assessment
28 is necessary, the executive director may assess any of the
29 following:

30 a. The depth of the water table at the site.

31 b. The nature of soils at the site.

32 c. The location, nature, and size of aquifers at the site.

33 d. The direction of present and historic groundwater flows
34 at the site.

35 e. The location and nature of surface waters at and near

1 the site.

2 f. The levels of contaminants in groundwater, surface
3 water, air, and soils at and near the site resulting from
4 hazardous wastes or hazardous substances disposed of at the
5 site.

6 g. The current quality of all drinking water drawn from or
7 distributed through the area in which the site is located, if
8 the executive director determines that water quality may have
9 been affected by the site.

10 4. The executive director shall maintain a site assessment
11 file for each site listed in the registry. The file shall
12 contain all information obtained pursuant to this section and
13 shall be open to the public. Information in the file may be
14 reproduced by any person at a charge not to exceed the actual
15 cost of reproduction for copies of file information.

16 Sec. 10. Section 455B.430, Code 1985, is amended to read
17 as follows:

18 455B.430 USE AND TRANSFER OF SITES -- PENALTY.

19 1. A person shall not substantially change the manner in
20 which an abandoned or uncontrolled hazardous-waste disposal
21 site on the registry pursuant to section 455B.426 is used
22 without the written approval of the executive director.

23 2. A person shall not sell, convey, or transfer title to
24 an abandoned or uncontrolled hazardous-waste disposal site
25 which is on the registry pursuant to section 455B.426 without
26 the written approval of the executive director. The executive
27 director shall respond to a request for a change of ownership
28 within thirty days of its receipt.

29 3. Decisions of the executive director concerning the use
30 or transfer of an abandoned or uncontrolled hazardous-waste
31 disposal site may be appealed in the manner provided in
32 section 455B.429.

33 4. If the executive director has reason to believe this
34 section has been violated, or is in imminent danger of being
35 violated, the executive director may institute a civil action

1 in district court for injunctive relief to prevent the
2 violation and for the assessment of a civil penalty not to
3 exceed one thousand dollars per day for each day of violation.
4 Moneys collected under this subsection shall be deposited in
5 the hazardous-waste remedial fund.

6 Sec. 11. Section 455B.431, Code 1985, is amended to read
7 as follows:

8 455B.431 RECORDING OF SITE DESIGNATION.

9 When the executive director places a site on the registry
10 as provided in section 455B.426, then the executive director
11 shall file with the county recorder a statement disclosing the
12 period during which the site was used as a hazardous waste or
13 hazardous substances disposal area. When the executive
14 director finds that a site on the registry has been properly
15 closed under section 455B.427, subsection 3, paragraph "e",
16 with no evidence of potential adverse impact, this finding
17 shall be filed with the county recorder. The finding shall
18 state that the executive director's finding does not warrant
19 to a future purchaser of the site that the site will be free
20 from any future adverse impacts as a result of use of the site
21 as a hazardous waste or hazardous substances disposal site.

22 EXPLANATION

23 This bill redefines those sites which meet the criteria to
24 be placed on the registry of abandoned or uncontrolled
25 hazardous waste disposal sites to include those sites at which
26 hazardous substances have been disposed of. This bill also
27 broadens the definition of "hazardous condition" to include
28 the immediate or potential danger to the environment.

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SENATE FILE 2166

AN ACT

RELATING TO THE AUTHORITY OF THE DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT TO REMOVE AND COMPEL REMOVAL OF HAZARDOUS SUBSTANCES OR HAZARDOUS WASTES.

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

Section 1. Section 455B.381, subsection 2, Code 1985, is amended to read as follows:

2. "Hazardous condition" means any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the state, or into the atmosphere, which creates an immediate or potential danger to the public health or safety or to the environment. For purposes of this division, a site which is an abandoned or uncontrolled disposal site as defined in section 455B.411, subsection 1, is a hazardous condition.

Sec. 2. Section 455B.411, subsections 1 and 2, Code 1985, are amended to read as follows:

1. "Abandoned or uncontrolled hazardous-waste disposal site" means real property which has been used for the disposal of hazardous waste or hazardous substances either illegally or prior to regulation under this chapter.

2. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of a hazardous waste or

hazardous substance into or on land or water so that the hazardous waste or hazardous substance or a constituent of the hazardous waste or hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

Sec. 3. Section 455B.411, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 11. "Hazardous substance" means a hazardous substance as defined in 42 U.S.C. § 9601 of the federal Comprehensive Environmental Response, Compensation, and Liability Act and any element, compound, mixture, solution, or substance designated pursuant to 40 C.F.R. 302.4.

Sec. 4. Section 455B.412, subsection 2, Code 1985, is amended to read as follows:

2. Adopt rules establishing criteria for identifying the characteristics of hazardous wastes and listing hazardous wastes that are subject to ~~sections-455B-411-to-455B-421~~ this part. The commission shall consider toxicity, persistence and degradability in nature, potential for accumulation in tissue, and related factors including flammability, corrosiveness, and other hazardous characteristics.

Sec. 5. Section 455B.423, Code 1985, is amended to read as follows:

455B.423 HAZARDOUS WASTE SUBSTANCE REMEDIAL FUND.

1. A hazardous waste substance remedial fund is created within the state treasury. Moneys received from fees, penalties, general revenue, federal funds, gifts, bequests, donations, or other moneys so designated shall be deposited in the state treasury to the credit of the fund. Any unexpended balance in the hazardous-waste remedial fund at the end of each fiscal year shall be retained in the fund. However, any unexpended balance shall be transferred to the general fund to replace funds appropriated from the general fund during fiscal year 1985 and fiscal year 1986 for the purposes for which expenditures from the hazardous-waste remedial fund are allowed.

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

- a. Administrative services for the identification, assessment and cleanup of abandoned or uncontrolled sites.
- b. Payments to other state agencies for services consistent with the management of abandoned or uncontrolled hazardous-waste disposal sites.
- c. Emergency response activities as provided in part 4 of this division.
- d. Financing the nonfederal share of the cost of cleanup and site rehabilitation activities as well as postclosure operation and maintenance costs, pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980.
- e. Financing the cost of cleanup and site rehabilitation activities as well as postclosure operation and maintenance costs of abandoned or uncontrolled hazardous-waste disposal sites that do not qualify for federal cost-sharing pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980.

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

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

3. Neither the state nor its officers, employees, or agents are liable for an injury caused by a dangerous condition at an abandoned or uncontrolled site unless the condition is the result of gross negligence on the part of the state, its officers, employees, or agents.

4. The executive director may contract with any person to perform the acts authorized in this section.

5. Moneys shall not be used from the fund for abandoned site cleanup unless the executive director has made all reasonable efforts to secure voluntary agreement to pay the costs of necessary remedial actions from owners or operators of abandoned or uncontrolled hazardous-waste disposal sites or other responsible persons.

6. The executive director shall make all reasonable efforts to recover the full amount of funds moneys expended from the fund through litigation or cooperative agreements with responsible persons. Moneys recovered pursuant to this subsection shall be deposited with the treasurer of state and credited to the hazardous-waste remedial fund.

Sec. 6. Section 455B.425, Code 1985, is amended to read as follows:

455B.425 ANNUAL REPORT ON HAZARDOUS WASTE SUBSTANCE REMEDIAL FUND.

The executive director shall annually on January 1 give a full accounting of moneys received, moneys expended, sources and recipients, and purposes of the expenditures for the preceding fiscal year in the hazardous waste substance remedial fund to the general assembly and the governor.

Sec. 7. Section 455B.426, Code 1985, is amended to read as follows:

455B.426 REGISTRY OF ABANDONED OR UNCONTROLLED DISPOSAL SITES.

1. The executive director shall maintain and make available for public inspection a registry of confirmed abandoned or uncontrolled hazardous-waste disposal sites in the state. The executive director shall take all necessary action to ensure that the registry provides a complete listing of all sites. The registry shall contain the exact location of each site and identify the types of waste found at each site.

2. The executive director shall investigate all known or suspected abandoned or uncontrolled disposal sites and

determine whether each site should be included in the registry. In the evaluation of known or suspected abandoned or uncontrolled disposal sites, the executive director may enter private property and perform tests and analyses in the manner provided in section 455B.416.

Sec. 8. Section 455B.427, Code 1985, is amended to read as follows:

455B.427 ANNUAL REPORT ON ABANDONED OR UNCONTROLLED HAZARDOUS-WASTE DISPOSAL SITES.

1. The executive director shall annually on January 1 transmit a report to the general assembly and the governor identifying all abandoned or uncontrolled hazardous-waste disposal sites in the state listed on the registry. A copy of the report shall also be sent to the board of supervisors of every county containing a site.

2. The annual report shall include, but is not limited to, the following information for each site:

a. A general description of the site, including the name and address of the site, the type and quantity of the hazardous waste or hazardous substance disposed of at the site and the name of the current owners of the site.

b. A summary of significant environmental problems at or near the site.

c. A summary of serious health problems in the immediate vicinity of the site and health problems deemed by the executive director in cooperation with the state department of health to be related to conditions at the site.

d. The status of testing, monitoring, or remedial actions in progress or recommended by the executive director.

e. The status of pending legal actions and federal, state, or local government permits concerning the site.

f. The relative priority for remedial action at each site.

g. The proximity of the site to private residences, public buildings or property, school facilities, places of work, or other areas where individuals may be regularly present.

3. In developing and maintaining the annual report, the executive director shall assess the relative priority of the need for action at each site to remedy environmental and health problems resulting from the presence of hazardous wastes or hazardous substances at the sites. In making its assessments of relative priority, the executive director, in cooperation with the state department of health on matters relating to public health, shall place every site in one of the following classifications:

a. Causing or presenting an imminent danger of causing irreversible or irreparable damage to the public health or environment--immediate action required.

b. Significant threat to the environment--action required.

c. Not a significant threat to the public health or environment--action may be deferred.

d. Site properly closed--requires continued management.

e. Site properly closed, no evidence of present or potential adverse impact--no further action required.

4. A site classified as properly closed under subsection 3, paragraph "e", shall be removed from all subsequent annual reports and the register of abandoned or uncontrolled disposal sites.

5. The executive director shall work with the department of health when assessing the effects of an abandoned or uncontrolled disposal site on human health.

Sec. 9. Section 455B.428, Code 1985, is amended to read as follows:

455B.428 INVESTIGATION OF SITES.

1. The executive director shall investigate each abandoned or uncontrolled hazardous-waste disposal site listed in the registry to determine its relative priority.

2. The executive director shall identify each abandoned or uncontrolled disposal site by providing all of the following:

a. The address and site boundaries.

b. The time period of use for disposal of hazardous waste or hazardous substances.

c. The name of the current owner and operator and names of reported owners and operators during the time period of use for disposal of hazardous waste or hazardous substances.

d. The names of persons responsible for the generation and transportation of the hazardous waste or hazardous substances disposed of at the site.

e. The type, quantity and manner of hazardous waste or hazardous substances disposal.

3. When preliminary evidence suggests further assessment is necessary, the executive director may assess any of the following:

a. The depth of the water table at the site.

b. The nature of soils at the site.

c. The location, nature, and size of aquifers at the site.

d. The direction of present and historic groundwater flows at the site.

e. The location and nature of surface waters at and near the site.

f. The levels of contaminants in groundwater, surface water, air, and soils at and near the site resulting from hazardous wastes or hazardous substances disposed of at the site.

g. The current quality of all drinking water drawn from or distributed through the area in which the site is located, if the executive director determines that water quality may have been affected by the site.

4. The executive director shall maintain a site assessment file for each site listed in the registry. The file shall contain all information obtained pursuant to this section and shall be open to the public. Information in the file may be reproduced by any person at a charge not to exceed the actual cost of reproduction for copies of file information.

Sec. 10. Section 455B.430, Code 1985, is amended to read as follows:

455B.430 USE AND TRANSFER OF SITES -- PENALTY.

1. A person shall not substantially change the manner in which an abandoned or uncontrolled hazardous-waste disposal site on the registry pursuant to section 455B.426 is used without the written approval of the executive director.

2. A person shall not sell, convey, or transfer title to an abandoned or uncontrolled hazardous-waste disposal site which is on the registry pursuant to section 455B.426 without the written approval of the executive director. The executive director shall respond to a request for a change of ownership within thirty days of its receipt.

3. Decisions of the executive director concerning the use or transfer of an abandoned or uncontrolled hazardous-waste disposal site may be appealed in the manner provided in section 455B.429.

4. If the executive director has reason to believe this section has been violated, or is in imminent danger of being violated, the executive director may institute a civil action in district court for injunctive relief to prevent the violation and for the assessment of a civil penalty not to exceed one thousand dollars per day for each day of violation. Moneys collected under this subsection shall be deposited in the hazardous-waste remedial fund.

Sec. 11. Section 455B.431, Code 1985, is amended to read as follows:

455B.431 RECORDING OF SITE DESIGNATION.

When the executive director places a site on the registry as provided in section 455B.426, then the executive director shall file with the county recorder a statement disclosing the period during which the site was used as a hazardous waste or hazardous substances disposal area. When the executive director finds that a site on the registry has been properly closed under section 455B.427, subsection 3, paragraph "e",

with no evidence of potential adverse impact, this finding shall be filed with the county recorder. The finding shall state that the executive director's finding does not warrant to a future purchaser of the site that the site will be free from any future adverse impacts as a result of use of the site as a hazardous waste or hazardous substances disposal site.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2166, Seventy-first General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved March 20, 1986

TERRY E. BRANSTAD
Governor