

1-31-95 Approp.

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SENATE FILE 81  
BY BANKS

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

A BILL FOR

1 An Act relating to underground storage tanks by creating a  
2 marketability fund and increasing the maximum environmental  
3 protection charge allocated to the underground storage tank  
4 fund.

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

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S.F. 81

1 Section 1. Section 423.24, subsection 1, paragraph a, Code  
2 1995, is amended to read as follows:

3 a. Twenty-five percent of all such revenue, up to a  
4 maximum of three four million eight-hundred-twenty-five  
5 seventy-five thousand dollars per quarter, shall be deposited  
6 into and credited to the Iowa comprehensive petroleum  
7 underground storage tank fund created in section 455G.3, and  
8 the moneys so deposited are a continuing appropriation for  
9 expenditure under chapter 455G, and moneys so appropriated  
10 shall not be used for other purposes.

11 Sec. 2. Section 424.3, subsection 5, Code 1995, is amended  
12 to read as follows:

13 5. The cost factor is an amount per gallon of diminution  
14 determined by the board pursuant to this subsection. The  
15 board, after public hearing, shall determine, or shall adjust,  
16 the cost factor to the greater of either an amount reasonably  
17 calculated to generate an annual average revenue, year to  
18 year, of fifteen sixteen million three hundred thousand  
19 dollars from the charge, excluding penalties and interest, or  
20 ten dollars. The board may determine or adjust the cost  
21 factor at any time but shall at minimum determine the cost  
22 factor at least once each fiscal year.

23 Sec. 3. Section 455G.3, subsection 3, Code 1995, is  
24 amended by adding the following new paragraph:

25 NEW PARAGRAPH. d. To establish a marketability fund to  
26 provide purchasers of clean sites and financial institutions  
27 indemnification for future cleanup costs as provided by  
28 section 455G.21.

29 Sec. 4. Section 455G.3, Code 1995, is amended by adding  
30 the following new subsection:

31 NEW SUBSECTION. 6. Of the moneys credited to the fund  
32 from the environmental protection charge under section 424.3,  
33 one million dollars per year shall be allocated to the  
34 marketability fund to be used for the purposes stated in  
35 section 455G.21.

1     Sec. 5. NEW SECTION. 455G.21 MARKETABILITY FUND.

2     1. A marketability fund is created as a separate fund in  
3 the state treasury under the control of the board. The board  
4 shall administer the fund. Notwithstanding section 8.33,  
5 moneys remaining in the fund at the end of each fiscal year  
6 shall not revert to the general fund but shall remain in the  
7 marketability fund. The fund shall include the following  
8 moneys:

9     a. One million dollars per year from the environmental  
10 protection charge pursuant to section 455G.3.

11    b. There shall be appropriated from the general fund of  
12 the state to the fund created under this section, for the  
13 fiscal year beginning July 1, 1995, and ending June 30, 1996,  
14 four million dollars. For each fiscal year thereafter, an  
15 amount shall be appropriated which shall be an amount  
16 sufficient to maintain the ending balance of the fund at five  
17 million dollars but the amount appropriated shall not exceed  
18 four million dollars.

19    c. Notwithstanding section 12C.7, interest or other income  
20 specifically allocated to the fund.

21    2. The purpose of the fund is to provide purchasers of  
22 property and financial institutions who are not otherwise  
23 eligible to receive benefits under this chapter,  
24 indemnification for the costs of remediating a site for which  
25 the owner or financial institution is considered to be a  
26 responsible party. For a financial institution to be eligible  
27 for benefits under this section, the financial institution  
28 must have accepted the site as collateral for a loan.

29    3. To claim benefits under the marketability fund, the  
30 owner of contaminated property or the financial institution  
31 shall file notice with the board within ninety days of being  
32 notified by the department of natural resources that the site  
33 is contaminated and requires remediation. The board shall  
34 provide a potential cost of remediation which shall be based  
35 upon current contamination levels and costs in effect at the

1 time of issuance.

2 4. Benefits shall be based upon the following:

3 a. An owner of property who has a net worth of one hundred  
4 thousand dollars or less shall receive one hundred percent of  
5 the costs of cleanup, an owner with a net worth which is  
6 greater than one hundred thousand dollars but less than five  
7 hundred thousand dollars shall receive seventy-five percent of  
8 the costs of cleanup and shall be required to ensure payment  
9 of the twenty-five percent deductible, but not to exceed fifty  
10 percent of the owner's net worth. An owner with a net worth  
11 of five hundred thousand dollars or greater shall receive  
12 sixty percent of the costs of cleanup and shall be required to  
13 ensure payment of the forty percent deductible, not to exceed  
14 fifty percent of the owner's net worth.

15 b. A financial institution shall have the amount of  
16 benefits determined by the net worth of the former owner at  
17 the time the loan was made by the financial institution.  
18 Benefits shall be determined in accordance with paragraph "a".

19 c. Net worth of the owner of property shall be determined  
20 as of the date of purchase of the property which is the  
21 subject of the remedial action. Net worth for financial  
22 institutions shall be determined as of the date the loan was  
23 initially made to the former owner by the financial  
24 institution. An entity shall be required to include in a  
25 financial statement the personal worth of all owners if the  
26 financial statement indicates that the owner is a corporation.

27 5. The department of natural resources shall determine if  
28 a site requires remediation. If an owner proceeds with  
29 cleanup without a determination from the department that  
30 cleanup is necessary, the owner is not eligible for benefits  
31 under this section. Sites with monitoring wells shall be  
32 required to maintain the monitoring wells and shall be  
33 required to monitor annually or as directed by the department.  
34 Sites that do not have monitoring wells shall not be required  
35 to monitor unless the department decides at a future date that

1 the site requires monitoring.

2 6. This section is repealed on January 1, 2020, at which  
3 time the owner of record becomes the responsible party and the  
4 marketability fund balance reverts to the general fund of the  
5 state.

6 EXPLANATION

7 This bill increases by \$1 million the amount of the  
8 environmental protection charge that is allocated to the  
9 underground storage tank fund.

10 The bill creates a marketability fund to provide purchasers  
11 of property who are not otherwise eligible for benefits under  
12 chapter 455G, and financial institutions that have made loans  
13 using property as collateral, with remedial benefits if  
14 cleanup is ordered on the site in the future. The  
15 marketability fund is funded from a \$1 million allocation from  
16 the environmental protection charge and a \$4 million yearly  
17 appropriation from the general fund of the state. The general  
18 fund appropriation is a yearly appropriation, except that only  
19 that amount of money which will maintain the fund at a \$5  
20 million level is to be appropriated each year. The fund is  
21 administered by the underground storage tank fund board.

22 The marketability fund provides purchasers of property who  
23 are not otherwise eligible for benefits under chapter 455G,  
24 benefits for the costs of remediation if cleanup is ordered on  
25 the site in the future. The fund will pay 100 percent of the  
26 costs of cleanup for owners with a net worth of \$100,000 or  
27 less, and 75 percent of the costs of cleanup for owners with a  
28 net worth which is greater than \$100,000 but less than  
29 \$500,000, however, the owner is required to assure payment of  
30 the 25 percent deductible, but not to exceed 50 percent of the  
31 owner's net worth. The fund will pay 60 percent of the costs  
32 of cleanup for owners with a net worth of \$500,000 or greater,  
33 however, the owner is required to assure payment of the 40  
34 percent deductible, but not to exceed 50 percent of the  
35 owner's net worth. A financial institution is eligible for

1 the same benefits as the person to whom the financial  
2 institution made the loan for which the site was accepted as  
3 collateral. Net worth is to be determined at the time the  
4 loan was made. The marketability fund is repealed on January  
5 1, 2020.

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