

5-3/11/98 at Resource
5-3/17/98 Do Pass

FEB 18 1998

Place On Calendar

HOUSE FILE 2339
BY COMMITTEE ON ENVIRONMENTAL
PROTECTION

(SUCCESSOR TO HSB 571)

Passed House, Date 3/11/98 (p. 600) Passed Senate, Date 3/24/98 (p. 852)
Vote: Ayes 95 Nays 0 Vote: Ayes 49 Nays 0
Approved April 9, 1998

A BILL FOR

1 An Act relating to limits on coverage of the remedial account of
2 the Iowa comprehensive petroleum underground storage tank
3 fund, the minimum copayment provisions in regard to the
4 remedial account, and creating a no further action fund.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2339

1 Section 1. Section 455G.3, subsection 3, Code 1997, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. e. To establish a no further action fund
4 for the purposes stated in section 455G.22.

5 Sec. 2. Section 455G.6, Code 1997, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 17. Allocate moneys from the Iowa
8 comprehensive petroleum underground storage tank fund to the
9 no further action fund.

10 Sec. 3. Section 455G.9, subsection 1, paragraph a,
11 subparagraph (1), unnumbered paragraph 1, Code 1997, is
12 amended to read as follows:

13 Corrective action for an eligible release reported to the
14 department of natural resources on or after July 1, 1987, but
15 prior to May 5, 1989. Third-party liability is specifically
16 excluded from remedial account coverage. For a claim for a
17 release ~~for-a-small-business~~ under this subparagraph, the
18 remedial program shall pay in accordance with subsection 4.
19 ~~For-all-other-claims-under-this-subparagraph, the remedial~~
20 ~~program shall pay the lesser of fifty thousand dollars of the~~
21 ~~total costs of corrective action for that release or total~~
22 ~~corrective action costs for that release as determined under~~
23 ~~subsection 4.~~ For a release to be eligible for coverage under
24 this subparagraph the following conditions must be satisfied:

25 Sec. 4. Section 455G.9, subsection 1, paragraph a,
26 subparagraph (3), Code 1997, is amended to read as follows:

27 (3) Corrective action for an eligible release reported to
28 the department of natural resources on or after January 1,
29 1984, but prior to July 1, 1987. Third-party liability is
30 specifically excluded from remedial account coverage. For a
31 claim for a release ~~for-a-small-business~~ under this
32 subparagraph, the remedial program shall pay in accordance
33 with subsection 4. ~~For-all-other-claims-under-this~~
34 ~~subparagraph, the remedial program shall pay the lesser of~~
35 ~~fifty thousand dollars of the total costs of corrective action~~

1 ~~for that release or total corrective action costs for that~~
2 ~~release as determined under subsection 4.~~ For a release to be
3 eligible for coverage under this subparagraph the following
4 conditions must be satisfied:

5 Sec. 5. Section 455G.9, subsection 4, Code 1997, is
6 amended to read as follows:

7 4. Minimum copayment schedule.

8 a. ~~An owner or operator who reports a release to the~~
9 ~~department of natural resources after May 5, 1989, and on or~~
10 ~~before October 26, 1990,~~ shall be required to pay the
11 following copayment amounts:

12 (1) ~~If the owner or operator has a net worth of one~~
13 ~~hundred thousand dollars or less and owns no more than one~~
14 ~~site, the owner or operator shall pay no more than eighteen~~
15 ~~percent of the total costs of corrective action for that~~
16 ~~release. For purposes of this subparagraph, "net worth" means~~
17 ~~the fair market value of the site, which shall include an~~
18 ~~adjustment for anticipated benefits under this section.~~

19 (2) ~~If a site's total anticipated expenses are not~~
20 ~~reserved for more than, or actual expenses do not exceed,~~
21 ~~eighty thousand dollars, the owner or operator shall pay the~~
22 ~~greater of five thousand dollars or eighteen percent of the~~
23 ~~first eighty thousand dollars of the total costs of corrective~~
24 ~~action for that release.~~

25 (3) ~~If a site's total anticipated expenses are reserved~~
26 ~~for more than, or actual expenses exceed, eighty thousand~~
27 ~~dollars, the owner or operator shall pay the amount as~~
28 ~~designated in subparagraph (2) plus thirty-five percent of the~~
29 ~~total costs of the corrective action for that release which~~
30 ~~exceed eighty thousand dollars.~~

31 b. ~~The remedial account shall pay the remainder, as~~
32 ~~required by federal regulations, of the total costs of the~~
33 ~~corrective action for that release, not to exceed one million~~
34 ~~dollars,~~ except that a county shall not be required to pay a
35 copayment in connection with a release situated on property

1 acquired in connection with delinquent taxes, as provided in
2 subsection 1, paragraph "d", unless subsequent to acquisition
3 the county actively operates a tank on the property for
4 purposes other than risk assessment, risk management, or tank
5 closure.

6 Sec. 6. Section 455G.21, subsection 2, paragraph a, Code
7 1997, is amended to read as follows:

8 a. Five million dollars per year shall be allocated to the
9 innocent landowners fund which shall be established as a
10 separate fund in the state treasury under the control of the
11 board. The innocent landowners fund shall also include any
12 moneys recovered pursuant to cost recovery enforcement under
13 section 455G.13. Notwithstanding section 455G.1, subsection
14 2, benefits for the costs of corrective action shall be
15 provided to the owner of a petroleum-contaminated property,
16 who is not otherwise eligible to receive benefits under
17 section 455G.9. An owner of a petroleum-contaminated property
18 shall be eligible for payment of total corrective action costs
19 subject to copayment requirements under section 455G.9,
20 subsection 4 ~~paragraph "a", subparagraphs (1) and (2)~~. The
21 board may adopt rules conditioning receipt of benefits under
22 this paragraph to those petroleum-contaminated properties
23 which present a higher degree of risk to the public health and
24 safety or the environment and may adopt rules providing for
25 denial of benefits under this paragraph to a person who did
26 not make a good faith attempt to comply with the provisions of
27 this chapter. This paragraph does not confer a legal right to
28 an owner of petroleum-contaminated property for receipt of
29 benefits under this paragraph.

30 Sec. 7. NEW SECTION. 455G.22 NO FURTHER ACTION FUND.

31 1. A no further action fund is created as a separate fund
32 in the state treasury under the control of and administered by
33 the board. Notwithstanding section 8.33, moneys remaining in
34 the no further action fund at the end of each fiscal year
35 shall not revert to the general fund of the state but shall

1 remain in the no further action fund. The no further action
2 fund shall include the following:

3 a. Ten million dollars allocated to the fund on July 1,
4 1998, from the Iowa comprehensive petroleum underground
5 storage tank fund created under section 455G.3.

6 b. Notwithstanding section 12C.7, interest earned by the
7 no further action fund or other moneys specifically allocated
8 to the no further action fund.

9 2. From the moneys in the fund, up to one hundred thousand
10 dollars per site may be used to reimburse the department for
11 corrective action as directed by the department under the
12 following conditions:

13 a. The corrective action is in response to high risk
14 conditions caused by a release for which the department has
15 issued a no further action certificate under section 455B.474.

16 b. The no further action certificate was issued after
17 January 31, 1997.

18 c. The department determines the high risk conditions are
19 not caused by a release which occurred after the issuance of
20 the no further action certificate.

21 3. Moneys in the no further action fund shall not be used
22 for the purposes of bonding or providing security for bonding
23 under this chapter.

24 4. This section does not confer a legal right to an owner
25 or operator of petroleum contaminated property or any other
26 person for receipt of benefits under this section.

27 5. Any funds remaining in the no further action fund on
28 June 30, 2006, which are not held in reserve for a claim
29 submitted pursuant to this section, and any funds which remain
30 on June 30, 2008, shall be credited to the road use tax fund.

31 EXPLANATION

32 This bill makes amendments to Code chapter 455G relating to
33 the Iowa comprehensive petroleum underground storage tank fund
34 and creates a no further action fund.

35 The bill amends requirements on the limits of remedial

1 account coverage which differentiate between claims for a
2 release for a small business and all other claims. The bill
3 also amends the minimum copayment schedule provisions relating
4 to the remedial account. The bill provides that, with the
5 exception of counties under certain circumstances, an owner or
6 operator shall be required to pay the greater of \$5,000 or 18
7 percent of the first \$80,000 of the total costs of corrective
8 action for that release. If the site's actual expenses exceed
9 \$80,000, the remedial account shall pay the remainder, as
10 provided by federal regulations, of the total costs, not to
11 exceed \$1 million.

12 The bill creates a no further action fund under the control
13 of and administered by the Iowa comprehensive petroleum
14 underground storage tank fund board. The fund shall consist
15 of \$10 million allocated from the comprehensive petroleum
16 underground storage tank fund and any interest earned on the
17 no further action fund. Moneys in the no further action fund
18 shall not revert to the general fund of the state at the end
19 of each fiscal year.

20 Up to \$100,000 from the no further action fund may be
21 reimbursed per site for corrective action under certain
22 conditions. Moneys in the fund shall not be used for purposes
23 of bonding or providing security for bonding. Any moneys
24 remaining in the fund on June 30, 2006, which are not held in
25 reserve for a claim, and any funds remaining on June 30, 2008,
26 shall be credited to the road use tax fund.

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**HOUSE FILE 2339
FISCAL NOTE**

A fiscal note for House File 2339 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2339 amends several provisions of the State's Underground Storage Tank Act (Chapter 455G, Code of Iowa). The bill:

1. Allows all claims for eligible releases reported between January 1, 1984, and May 5, 1989, (commonly referred to as "retroactive" claims) to receive benefits on par with those releases reported between May 5, 1989, and October 27, 1990, (commonly referred to as "remedial" claims). Under current law, only retroactive claims from small businesses qualify for full remedial benefits. Small business is defined as independent owners with 12 or fewer tanks at two or fewer sites and a net worth of \$400,000 or less. Non-small businesses are currently limited to \$50,000 in retroactive benefits.
2. Limits the copayment required of claimants to 18.00% of the first \$80,000 of corrective action costs (\$14,400). Under current law, small owners are also responsible for 18.00% of costs between \$80,000 and \$1.0 million (potentially \$166,000), while larger owners are responsible for 35.00% of costs between \$80,000 and \$1.0 million (potentially \$322,000).
3. Establishes a \$10.0 million No Further Action Fund to pay up to \$100,000 of remediation costs at any site for which the Department of Natural Resources has issued a No Further Action Certificate and the site is later found to require additional remediation. The money for the Fund would come from current UST Fund balances. The new Fund would retain its interest.

BACKGROUND

The current UST Program was created in HF 447 (Petroleum Underground Storage Tank Act of 1989) in response to federal cleanup and insurance requirements imposed on owners and operators of underground petroleum storage tanks. That Act required a copayment of 25.00% of cleanup costs, with the State UST Fund responsible for the remainder. As provided in the original Act, a claimant with a \$250,000 claim would be responsible for \$62,500 in costs. Amendments over the years have lowered the copayment required of a claimant. The Bill would further limit the amount to be paid by a claimant to \$14,400.

The Department of Natural Resources is authorized to issue a No Further Action Certificate when site testing shows the site is not a threat to health, safety, and other property. If further remediation is required on the site after the Certificate is issued, the owner will not be required to pay for the work. Without another responsible party, the cost of the cleanup would fall on government entities. The creation of a No Further Action Fund would allow the Department of Natural Resources to issue Certificates with the confidence that a funding source is available in case the Certificate was incorrectly issued.

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ASSUMPTIONS

1. Of the current 2,674 sites:
 - A. 134 (5.00%) will be classified No Further Action (average cost = \$26,000 per site).
 - B. 1,872 (70.00%) will be classified Low Risk (average cost = \$52,800).
 - C. 669 (25.00%) will be classified High Risk (average cost = \$257,600).
2. Cleanup will continue through FY 2011, with most of the expenditures from FY 1999 through FY 2007.
3. There are currently 30 retroactive sites which do not qualify as small businesses.
4. There are currently 601 sites which have exceeded or will exceed \$80,000.
5. The creation of a No Further Action Fund will not increase or decrease the number of incorrect No Further Action Certificates issued by the Department of Natural Resources.

FISCAL IMPACT

The provisions limiting claimant copayment to \$14,400 would increase UST Program costs by \$24.2 million over the next 13 fiscal years starting in FY 1999. It is projected that 601 claimants would have their copayments reduced by an average of \$40,000.

The provisions allowing non-small business retroactive claims to receive full remedial benefits would increase UST Program expenses by \$5.8 million over the next three to five years starting in FY 1999. A total of 30 claimants would have their copayments reduced by an average of \$193,000.

The allocation of \$10.0 million and the interest earned on the balance of the No Further Action Fund would allow approximately 130 sites (3.25% of all known sites) to be remediated if No Further Action Certificates were incorrectly issued by the Department of Natural Resources. However, there is no fiscal impact because under current law the State would likely be responsible for remediation at any site covered by a No Further Action Certificate due to the release of liability granted the site owner by the Certificate.

SOURCE

Underground Storage Tank Board

(LSB 3784hv, JWR)

FILED MARCH 11, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2339

H-8183

- 1 Amend House File 2339 as follows:
2 1. Page 1, by striking line 16 and inserting the
3 following: "excluded from remedial account coverage.
4 If the owner or operator submitting the claim owns or
5 operates one thousand or more tanks or has a net worth
6 of twenty million dollars or more, the remedial
7 program shall pay the lesser of fifty thousand dollars
8 of the total cost of corrective action for that
9 release or total corrective action costs for that
10 release as determined by subsection 4. For a-claim
11 all other claims for a".
12 2. Page 1, by striking line 30 and inserting the
13 following: "specifically excluded from remedial
14 account coverage. If the owner or operator submitting
15 the claim owns or operates one thousand or more tanks
16 or has a net worth of twenty million dollars or more,
17 the remedial program shall pay the lesser of fifty
18 thousand dollars of the total cost of corrective
19 action for that release or total corrective action
20 costs for that release as determined under subsection
21 4. For a".
22 3. Page 1, line 31, by striking the word "claim"
23 and inserting the following: "claim all other
24 claims".

By FALLON of Polk

H-8183 FILED MARCH 3, 1998

Last 3/11/98 (p. 598)

HOUSE FILE 2339

H-8271

- 1 Amend the amendment, H-8080, to House File 2339 as
2 follows:
3 1. Page 1, line 29, by inserting after the word
4 "dollars." the following: "The remedial account shall
5 pay the remainder, as required by federal regulations,
6 of the total costs of the corrective action for that
7 release, not to exceed one million dollars."

By FALLON of Polk

H-8271 FILED MARCH 10, 1998

Adopted 3/11/98

TIW

H-8074

1 Amend House File 2339 as follows:
 2 1. Page 2, line 24, by inserting after the word
 3 "release." the following: "Any owner or operator with
 4 less than one thousand storage tanks or with a net
 5 worth of less than twenty million dollars shall not
 6 pay a copayment of more than fourteen thousand four
 7 hundred dollars."

By FALLON of Polk
 SHOULTZ of Black Hawk

H-8074 FILED FEBRUARY 18, 1998

WITHDRAWN 3/11/98

HOUSE FILE 2339

H-8080

1 Amend House File 2339 as follows:
 2 1. Page 2, by striking line 8 and inserting the
 3 following:
 4 "a. An owner or operator ~~who reports a release to~~
 5 ~~the~~".
 6 2. Page 2, line 25, by striking the words "If a
 7 site's" and inserting the following: "if a site's".
 8 3. Page 2, lines 26 and 27, by striking the words
 9 "actual expenses exceed, eighty thousand dollars, the"
 10 and inserting the following: "actual expenses exceed,
 11 eighty thousand dollars, the".
 12 4. Page 2, line 31, by striking the words "b-
 13 The" and inserting the following: "b. The For a
 14 claim by an owner or operator who has a net worth of
 15 less than twenty million dollars and owns or operates
 16 less than one thousand underground storage tanks, if a
 17 site's actual expenses exceed eighty thousand dollars,
 18 the".
 19 5. Page 3, by inserting after line 5 the
 20 following:
 21 "c. For a claim by an owner or operator who has a
 22 net worth of twenty million dollars or more or
 23 operates one thousand underground storage tanks or
 24 more, if a site's actual expenses exceed eighty
 25 thousand dollars, the owner or operator shall pay the
 26 amount as designated in paragraph "a", plus thirty
 27 five percent of the total costs of the corrective
 28 action for that release which exceeds eighty thousand
 29 dollars."

By FALLON of Polk
 SHOULTZ of Black Hawk

H-8080 FILED FEBRUARY 23, 1998

Lost 3/11/98

(p. 600)

Rep. Ojpp, Chron.
Rep. Van Fossen
Rep. Witt

HSB 571

ENVIRONMENTAL PROTECTION

Succeeded By
SFH 2339

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL BY CHAIRPERSON HAHN)

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

A BILL FOR

1 An Act relating to limits on coverage of the remedial account of
2 the Iowa comprehensive petroleum underground storage tank
3 fund, the minimum copayment provisions in regard to the
4 remedial account, and creating a no further action fund.

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

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1 Section 1. Section 455G.3, subsection 3, Code 1997, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. e. To establish a no further action fund
4 for the purposes stated in section 455G.22.

5 Sec. 2. Section 455G.6, Code 1997, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 17. Allocate moneys from the Iowa
8 comprehensive petroleum underground storage tank fund to the
9 no further action fund.

10 Sec. 3. Section 455G.9, subsection 1, paragraph a,
11 subparagraph (1), unnumbered paragraph 1, Code 1997, is
12 amended to read as follows:

13 Corrective action for an eligible release reported to the
14 department of natural resources on or after July 1, 1987, but
15 prior to May 5, 1989. Third-party liability is specifically
16 excluded from remedial account coverage. For a claim for a
17 release ~~for-a-small-business~~ under this subparagraph, the
18 remedial program shall pay in accordance with subsection 4.
19 ~~For-all-other-claims-under-this-subparagraph, the remedial~~
20 ~~program shall pay the lesser of fifty thousand dollars of the~~
21 ~~total costs of corrective action for that release or total~~
22 ~~corrective action costs for that release as determined under~~
23 ~~subsection 4.~~ For a release to be eligible for coverage under
24 this subparagraph the following conditions must be satisfied:

25 Sec. 4. Section 455G.9, subsection 1, paragraph a,
26 subparagraph (3), Code 1997, is amended to read as follows:

27 (3) Corrective action for an eligible release reported to
28 the department of natural resources on or after January 1,
29 1984, but prior to July 1, 1987. Third-party liability is
30 specifically excluded from remedial account coverage. For a
31 claim for a release ~~for-a-small-business~~ under this
32 subparagraph, the remedial program shall pay in accordance
33 with subsection 4. ~~For-all-other-claims-under-this~~
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35 ~~fifty thousand dollars of the total costs of corrective action~~

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3 eligible for coverage under this subparagraph the following
4 conditions must be satisfied:

5 Sec. 5. Section 455G.9, subsection 4, Code 1997, is
6 amended to read as follows:

7 4. Minimum copayment schedule.

8 a. An owner or operator ~~who reports a release to the~~
9 ~~department of natural resources after May 5, 1989, and on or~~
10 ~~before October 26, 1990,~~ shall be required to pay the
11 ~~following copayment amounts:~~

12 (1) ~~if the owner or operator has a net worth of one~~
13 ~~hundred thousand dollars or less and owns no more than one~~
14 ~~site, the owner or operator shall pay no more than eighteen~~
15 ~~percent of the total costs of corrective action for that~~
16 ~~release. For purposes of this subparagraph, "net worth" means~~
17 ~~the fair market value of the site, which shall include an~~
18 ~~adjustment for anticipated benefits under this section.~~

19 (2) ~~if a site's total anticipated expenses are not~~
20 ~~reserved for more than, or actual expenses do not exceed,~~
21 ~~eighty thousand dollars, the owner or operator shall pay the~~
22 ~~greater of five thousand dollars or eighteen percent of the~~
23 first eighty thousand dollars of the total costs of corrective
24 action for that release.

25 (3) ~~If a site's total anticipated expenses are reserved~~
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29 ~~total costs of the corrective action for that release which~~
30 ~~exceed eighty thousand dollars.~~

31 b. ~~The remedial account shall pay the remainder, as~~
32 ~~required by federal regulations, of the total costs of the~~
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34 dollars, except that a county shall not be required to pay a
35 copayment in connection with a release situated on property

1 acquired in connection with delinquent taxes, as provided in
2 subsection 1, paragraph "d", unless subsequent to acquisition
3 the county actively operates a tank on the property for
4 purposes other than risk assessment, risk management, or tank
5 closure.

6 Sec. 6. Section 455G.21, subsection 2, paragraph a, Code
7 1997, is amended to read as follows:

8 a. Five million dollars per year shall be allocated to the
9 innocent landowners fund which shall be established as a
10 separate fund in the state treasury under the control of the
11 board. The innocent landowners fund shall also include any
12 moneys recovered pursuant to cost recovery enforcement under
13 section 455G.13. Notwithstanding section 455G.1, subsection
14 2, benefits for the costs of corrective action shall be
15 provided to the owner of a petroleum-contaminated property,
16 who is not otherwise eligible to receive benefits under
17 section 455G.9. An owner of a petroleum-contaminated property
18 shall be eligible for payment of total corrective action costs
19 subject to copayment requirements under section 455G.9,
20 subsection 4, ~~paragraph "a", subparagraphs (1) and (2)~~. The
21 board may adopt rules conditioning receipt of benefits under
22 this paragraph to those petroleum-contaminated properties
23 which present a higher degree of risk to the public health and
24 safety or the environment and may adopt rules providing for
25 denial of benefits under this paragraph to a person who did
26 not make a good faith attempt to comply with the provisions of
27 this chapter. This paragraph does not confer a legal right to
28 an owner of petroleum-contaminated property for receipt of
29 benefits under this paragraph.

30 Sec. 7. NEW SECTION. 455G.22 NO FURTHER ACTION FUND.

31 1. A no further action fund is created as a separate fund
32 in the state treasury under the control of and administered by
33 the board. Notwithstanding section 8.33, moneys remaining in
34 the no further action fund at the end of each fiscal year
35 shall not revert to the general fund of the state but shall

1 remain in the no further action fund. The no further action
2 fund shall include the following:

3 a. Ten million dollars allocated to the fund on July 1,
4 1998, from the Iowa comprehensive petroleum underground
5 storage tank fund created under section 455G.3.

6 b. Notwithstanding section 12C.7, interest earned by the
7 no further action fund or other moneys specifically allocated
8 to the no further action fund.

9 2. From the moneys in the fund, up to one hundred thousand
10 dollars per site may be used to reimburse the department for
11 corrective action as directed by the department under the
12 following conditions:

13 a. The corrective action is in response to high risk
14 conditions caused by a release for which the department has
15 issued a no further action certificate under section 455B.474.

16 b. The no further action certificate was issued after
17 January 31, 1997.

18 c. The department determines the high risk conditions are
19 not caused by a release which occurred after the issuance of
20 the no further action certificate.

21 3. Moneys in the no further action fund shall not be used
22 for the purposes of bonding or providing security for bonding
23 under this chapter.

24 4. This section does not confer a legal right to an owner
25 or operator of petroleum contaminated property or any other
26 person for receipt of benefits under this section.

27 5. Any funds remaining in the no further action fund on
28 June 30, 2006, which are not held in reserve for a claim
29 submitted pursuant to this section, and any funds which remain
30 on June 30, 2008, shall be credited to the road use tax fund.

31 EXPLANATION

32 This bill makes amendments to Code chapter 455G relating to
33 the Iowa comprehensive petroleum underground storage tank fund
34 and creates a no further action fund.

35 The bill amends requirements on the limits of remedial

1 account coverage which differentiate between claims for a
2 release for a small business and all other claims. The bill
3 also amends the minimum copayment schedule provisions relating
4 to the remedial account. The bill provides that, with the
5 exception of counties under certain circumstances, an owner or
6 operator shall be required to pay the greater of \$5,000 or 18
7 percent of the first \$80,000 of the total costs of corrective
8 action for that release. If the site's actual expenses exceed
9 \$80,000, the remedial account shall pay the remainder, as
10 provided by federal regulations, of the total costs, not to
11 exceed \$1 million.

12 The bill creates a no further action fund under the control
13 of and administered by the Iowa comprehensive petroleum
14 underground storage tank fund board. The fund shall consist
15 of \$10 million allocated from the comprehensive petroleum
16 underground storage tank fund and any interest earned on the
17 no further action fund. Moneys in the no further action fund
18 shall not revert to the general fund of the state at the end
19 of each fiscal year.

20 Up to \$100,000 from the no further action fund may be
21 reimbursed per site for corrective action under certain
22 conditions. Moneys in the fund shall not be used for purposes
23 of bonding or providing security for bonding. Any moneys
24 remaining in the fund on June 30, 2006, which are not held in
25 reserve for a claim, and any funds remaining on June 30, 2008,
26 shall be credited to the road use tax fund.

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HOUSE FILE 2339

AN ACT

RELATING TO LIMITS ON COVERAGE OF THE REMEDIAL ACCOUNT OF THE IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND, THE MINIMUM COPAYMENT PROVISIONS IN REGARD TO THE REMEDIAL ACCOUNT, AND CREATING A NO FURTHER ACTION FUND.

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

Section 1. Section 455G.3, subsection 3, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. To establish a no further action fund for the purposes stated in section 455G.22.

Sec. 2. Section 455G.6, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 17. Allocate moneys from the Iowa comprehensive petroleum underground storage tank fund to the no further action fund.

Sec. 3. Section 455G.9, subsection 1, paragraph a, subparagraph (1), unnumbered paragraph 1, Code 1997, is amended to read as follows:

Corrective action for an eligible release reported to the department of natural resources on or after July 1, 1987, but prior to May 5, 1989. Third-party liability is specifically excluded from remedial account coverage. For a claim for a release ~~for a small business~~ under this subparagraph, the remedial program shall pay in accordance with subsection 4. ~~For all other claims under this subparagraph, the remedial program shall pay the lesser of fifty thousand dollars of the total costs of corrective action for that release or total corrective action costs for that release as determined under subsection 4.~~ For a release to be eligible for coverage under this subparagraph the following conditions must be satisfied:

Sec. 4. Section 455G.9, subsection 1, paragraph a, subparagraph (3), Code 1997, is amended to read as follows:

(3) Corrective action for an eligible release reported to the department of natural resources on or after January 1, 1984, but prior to July 1, 1987. Third-party liability is specifically excluded from remedial account coverage. For a claim for a release ~~for a small business~~ under this subparagraph, the remedial program shall pay in accordance with subsection 4. ~~For all other claims under this subparagraph, the remedial program shall pay the lesser of fifty thousand dollars of the total costs of corrective action for that release or total corrective action costs for that release as determined under subsection 4.~~ For a release to be eligible for coverage under this subparagraph the following conditions must be satisfied:

Sec. 5. Section 455G.9, subsection 4, Code 1997, is amended to read as follows:

4. Minimum copayment schedule.

~~a.~~ An owner or operator who reports a release to the department of natural resources after May 5, 1989, and on or before October 26, 1990, shall be required to pay the following copayment amounts:

~~(1) If the owner or operator has a net worth of one hundred thousand dollars or less and owns no more than one site, the owner or operator shall pay no more than eighteen percent of the total costs of corrective action for that release. For purposes of this subparagraph, "net worth" means the fair market value of the site, which shall include an adjustment for anticipated benefits under this section.~~

~~(2) If a site's total anticipated expenses are not reserved for more than, or actual expenses do not exceed, eighty thousand dollars, the owner or operator shall pay the greater of five thousand dollars or eighteen percent of the first eighty thousand dollars of the total costs of corrective action for that release.~~

~~{3} If a site's total-anticipated-expenses-are-reserved for-more-than-7-or actual expenses exceed, eighty thousand dollars, the owner-or-operator-shall-pay-the-amount-as designated-in-subparagraph-{2}-plus-thirty-five-percent-of-the total-costs-of-the-corrective-action-for-that-release-which exceed-eighty-thousand-dollars.~~

b.--The remedial account shall pay the remainder, as required by federal regulations, of the total costs of the corrective action for that release, not to exceed one million dollars, except that a county shall not be required to pay a copayment in connection with a release situated on property acquired in connection with delinquent taxes, as provided in subsection 1, paragraph "d", unless subsequent to acquisition the county actively operates a tank on the property for purposes other than risk assessment, risk management, or tank closure.

Sec. 6. Section 455G.21, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. Five million dollars per year shall be allocated to the innocent landowners fund which shall be established as a separate fund in the state treasury under the control of the board. The innocent landowners fund shall also include any moneys recovered pursuant to cost recovery enforcement under section 455G.13. Notwithstanding section 455G.1, subsection 2, benefits for the costs of corrective action shall be provided to the owner of a petroleum-contaminated property, who is not otherwise eligible to receive benefits under section 455G.9. An owner of a petroleum-contaminated property shall be eligible for payment of total corrective action costs subject to copayment requirements under section 455G.9, subsection 4, ~~paragraph "a", subparagraphs {1} and {2}~~. The board may adopt rules conditioning receipt of benefits under this paragraph to those petroleum-contaminated properties which present a higher degree of risk to the public health and safety or the environment and may adopt rules providing for

denial of benefits under this paragraph to a person who did not make a good faith attempt to comply with the provisions of this chapter. This paragraph does not confer a legal right to an owner of petroleum-contaminated property for receipt of benefits under this paragraph.

Sec. 7. NEW SECTION. 455G.22 NO FURTHER ACTION FUND.

1. A no further action fund is created as a separate fund in the state treasury under the control of and administered by the board. Notwithstanding section 8.33, moneys remaining in the no further action fund at the end of each fiscal year shall not revert to the general fund of the state but shall remain in the no further action fund. The no further action fund shall include the following:

a. Ten million dollars allocated to the fund on July 1, 1998, from the Iowa comprehensive petroleum underground storage tank fund created under section 455G.3.

b. Notwithstanding section 12C.7, interest earned by the no further action fund or other moneys specifically allocated to the no further action fund.

2. From the moneys in the fund, up to one hundred thousand dollars per site may be used to reimburse the department for corrective action as directed by the department under the following conditions:

a. The corrective action is in response to high risk conditions caused by a release for which the department has issued a no further action certificate under section 455B.474.

b. The no further action certificate was issued after January 31, 1997.

c. The department determines the high risk conditions are not caused by a release which occurred after the issuance of the no further action certificate.

3. Moneys in the no further action fund shall not be used for the purposes of bonding or providing security for bonding under this chapter.

4. This section does not confer a legal right to an owner or operator of petroleum contaminated property or any other person for receipt of benefits under this section.

5. Any funds remaining in the no further action fund on June 30, 2006, which are not held in reserve for a claim submitted pursuant to this section, and any funds which remain on June 30, 2008, shall be credited to the road use tax fund.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2339, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 9, 1998

TERRY E. BRANSTAD
Governor

HF 2339