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SENATE FILE 452
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SF 299)

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

A BILL FOR

1 An Act relating to remediation of agrichemical sites, and
2 providing fees.

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

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SF 452

1 Section 1. NEW SECTION. 200.8A AGRICHEMICAL REMEDIATION
2 FEES.

3 A person licensed to sell or distribute commercial
4 fertilizers and soil conditioners who is required to pay an
5 inspection fee under section 200.8 shall pay an agrichemical
6 remediation fee as required pursuant to section 455L.7.

7 Sec. 2. NEW SECTION. 206.13A AGRICHEMICAL REMEDIATION
8 FEES.

9 A person required to register a pesticide for agricultural
10 or horticultural use in this state under section 206.12 shall
11 pay an agrichemical remediation fee as required pursuant to
12 section 455L.7.

13 Sec. 3. NEW SECTION. 455L.1 TITLE.

14 This section shall be known and may be cited as the "Iowa
15 Agrichemical Remediation Act".

16 Sec. 4. NEW SECTION. 455L.2 DEFINITIONS.

17 1. "Action level" means the level of contamination that
18 causes a risk of adverse health effects based on sources
19 determined to be credible by the department, including the
20 United States environmental protection agency or current
21 toxicological information.

22 2. "Active site cleanup" means treating, dispersing,
23 removing, or disposing of contamination located in soil or
24 water, including, but not limited to, excavating soil or,
25 installing institutional or technological controls to protect
26 water quality.

27 3. "Agrichemical" means a fertilizer or pesticide.

28 4. "Background levels" mean concentrations of a
29 contaminant generally present in the environment in the
30 vicinity of a site or an affected area and not the result of
31 release.

32 5. "Board" means the agrichemical remediation
33 reimbursement board created under section 455L.3.

34 6. "Contaminated site" means a site where contamination
35 has been discovered.

1 7. "Contamination" means the presence of pesticide or
2 fertilizer in soil or groundwater at levels above levels that
3 would result from normal field application rates or above
4 background levels.

5 8. "Department" means the department of agriculture and
6 land stewardship.

7 9. "Fertilizer" means a fertilizer or soil conditioner as
8 defined in section 200.3.

9 10. "Fertilizer site" means a location where one or more
10 containers are used for the storage of fertilizer, if there is
11 one or more nonmobile containers at the location which have a
12 total capacity to hold more than five thousand gallons of
13 fertilizer.

14 11. "Fund" means the agrichemical remediation fund created
15 under section 455L.8.

16 12. "Passive cleanup" means the removal or treatment of a
17 contaminant in soil or water through management practices or
18 the construction of barriers, trenches, and other similar
19 facilities for prevention of contamination, as well as the use
20 of natural processes such as groundwater recharge, natural
21 decay, and chemical or biological decomposition.

22 13. "Pesticide" means a pesticide as defined in section
23 206.2.

24 14. "Pesticide site" means a location where one or more
25 containers are used for the storage and mixing of pesticides,
26 if all of the following apply:

27 a. The location is a site used for the storage and
28 distribution of pesticides.

29 b. Pesticides are at the location thirty or more
30 consecutive days.

31 c. Three hundred or more gallons of liquid pesticides or
32 three hundred or more pounds of dry pesticides are mixed,
33 repackaged, or transferred from one container to another
34 container within thirty consecutive days.

35 15. "Prohibited release" means spilling, leaking, pumping,

1 pouring, emitting, emptying, discharging, injecting, escaping,
2 leaching, dumping, or disposing an agrichemical into the
3 environment from a site, if the spill, emission, or discharge
4 is in an amount or manner that causes contamination.

5 16. "Protected groundwater source" means a saturated bed,
6 formation, or group of formations which has a hydraulic
7 conductivity of at least forty-four-hundredths meters per day
8 and a total dissolved solids concentration of less than two
9 thousand five hundred milligrams per liter.

10 17. "Remediation" means a process used to protect the
11 public health and the safety or the environment from
12 contamination, including by doing all of the following:

13 a. Controlling, containing, or stabilizing the effects
14 caused by a prohibited release.

15 b. Investigating, identifying, or analyzing a contaminant
16 or a contamination source; collecting samples, including soil
17 and water samples; assessing the condition of a site;
18 monitoring a contaminated site; providing for structural
19 testing; or providing for engineering services.

20 c. Providing for site cleanup.

21 18. a. "Responsible person" means a person who is legally
22 liable for the contamination or who is legally responsible for
23 abating contamination under any applicable law, including
24 chapters 455B and 455E, and the common law. This may include
25 a person causing, allowing, or otherwise participating in the
26 activities or events which cause the contamination, persons
27 who have failed to conduct their activities so as to prevent
28 the release of contaminants into groundwater, responsible
29 persons who are obligated to abate a condition, or persons
30 responsible for or a successor to such persons.

31 b. "Responsible person" does not include a person who
32 caused contamination by acting in a manner unauthorized by the
33 responsible person of the site or the pesticide or fertilizer,
34 including a person who trespasses upon the site.

35 19. "Site" means a fertilizer site or a pesticide site.

1 20. "Site cleanup" means measures used to contain, reduce,
2 or eliminate contamination present at a site including by
3 using active site cleanup or passive site cleanup measures, or
4 complying with a correction action required or recommended by
5 the department of natural resources or the United States
6 environmental protection agency.

7 Sec. 5. NEW SECTION. 455L.3 AGRICHEMICAL REMEDIATION
8 BOARD.

9 1. An agrichemical remediation board is established within
10 the department consisting of seven members.

11 2. The members shall include all of the following:

12 a. Five voting members appointed by the secretary of
13 agriculture. The members shall include all of the following:

14 (1) One member who is actively engaged in selling
15 agricultural products on a retail basis, or who represents an
16 association of members actively engaged in selling such
17 products.

18 (2) One member who is actively engaged in producing an
19 agricultural commodity.

20 (3) One member who is actively engaged in the distribution
21 of agrichemicals or who is a representative of an association
22 of members actively engaged in the distribution of
23 agrichemicals.

24 (4) One person who is actively engaged in the manufacture
25 or distribution of fertilizers or who is a representative of
26 an association of members actively engaged in the manufacture
27 or distribution of fertilizers.

28 (5) One person who is a pesticide registrant actively
29 engaged in the manufacture and distribution of pesticides as
30 provided in section 206.12 or who represents an association of
31 members licensed as pesticide registrants.

32 b. The following two members who shall be ex officio
33 nonvoting members of the board:

34 (1) The secretary of agriculture or the secretary's
35 designee.

1 (2) The director of the department of natural resources or
2 the director's designee.

3 3. a. The five voting members are subject to confirmation
4 by the senate pursuant to section 2.32.

5 b. The voting members shall serve terms of three years
6 beginning and ending as provided in section 69.19. However,
7 the secretary shall appoint initial members to serve for less
8 than three years to ensure members serve staggered terms.
9 Appointments to the board shall be based upon the training,
10 experience and capacity of the appointees, and not upon
11 political considerations, other than as provided in sections
12 69.16 and 69.16A.

13 c. A vacancy on the board shall be filled in the same
14 manner as an original appointment. A person appointed to fill
15 a vacancy shall serve only for the unexpired portion of the
16 term. An appointed member is eligible for reappointment.

17 d. An appointed member may be removed from office by the
18 secretary for misfeasance, malfeasance, willful neglect of
19 duty, or other just cause, after notice and hearing, unless
20 the notice and hearing is expressly waived in writing.

21 5. The appointed members shall receive a per diem as
22 specified in section 7E.6 for each day spent in performance of
23 duties as members, and shall be reimbursed for all actual and
24 necessary expenses incurred in the performance of duties as
25 members.

26 6. The board shall elect a chairperson each year. The
27 board shall meet on a regular basis and at the call of the
28 chairperson or upon the written request to the chairperson of
29 two or more members.

30 7. The department shall staff the board.

31 Sec. 6. NEW SECTION. 455L.4 BOARD POWERS AND DUTIES.

32 The board shall have all powers necessary to carry out the
33 functions and duties specified for the board as provided in
34 this chapter. The board shall do all of the following:

35 1. Review and determine the eligibility of responsible

1 persons under section 455L.9 and claims under section 455L.10,
2 and approve administrative costs of the department paid from
3 the fund. Administrative costs for each year shall not exceed
4 one hundred thousand dollars or five percent of revenues
5 deposited into the fund each year, whichever is greater.

6 2. Consult with the department regarding remediation
7 standards adopted by the department pursuant to section
8 455L.5.

9 3. Approve rules proposed by the department for the
10 administration of this chapter. The rules of the department
11 shall contain the rules of the board adopted for its
12 organization, procedures, programs, and requirements as
13 required in this chapter. The rules shall provide for all of
14 the following:

15 a. The board's organization and parliamentary procedures.

16 b. Standards for remediation as provided in section
17 455L.5.

18 c. The administration of agrichemical remediation fees as
19 provided in section 455L.7.

20 d. Procedures for paying claims as provided in section
21 455L.10.

22 Sec. 7. NEW SECTION. 455L.5 REMEDIATION STANDARDS.

23 1. The department shall establish remediation standards
24 after consultation with the board. The standards must provide
25 for the protection of the public health and safety and the
26 environment.

27 2. In establishing these standards, all of the following
28 shall be considered:

29 a. Separate standards shall be established for
30 contaminants in soil, in groundwater which is a protected
31 groundwater source, and in groundwater which is not a
32 protected groundwater source.

33 b. In groundwater which is a protected groundwater source,
34 the standards shall be no more protective than the least
35 restrictive of the maximum contaminant levels established

1 pursuant to the department of natural resources' drinking
2 water standards, a standard reflecting an increased cancer
3 risk of one in one million, or a standard reflecting a
4 noncancer health risk of one. An affected area shall not be
5 required to be cleaned up to concentration levels below or
6 more restrictive than background levels.

7 c. In groundwater which is not a protected groundwater
8 source, the standards shall be no more protective than the
9 least restrictive of a standard reflecting an increased cancer
10 risk of one in ten thousand or a standard reflecting a
11 noncancer health risk of one. An affected area shall not be
12 required to be cleaned up to levels below or more restrictive
13 than background levels.

14 d. In soil, the standards shall be no more protective than
15 the least restrictive of a standard reflecting an increased
16 cancer risk of one in one million or a standard reflecting a
17 noncancer health risk of one. An affected area shall not be
18 required to be cleaned up to concentration levels below or
19 more restrictive than background levels.

20 Sec. 8. NEW SECTION. 455L.6 PRIORITIZATION.

21 1. The board may adopt rules to establish criteria for the
22 classification and prioritization of sites upon which
23 contamination has been discovered.

24 2. A contaminated site shall be classified as either high,
25 medium, or low priority.

26 a. A site shall be considered high priority under any of
27 the following conditions:

28 (1) Groundwater contamination exceeds action levels and is
29 affecting or likely to affect groundwater used as a drinking
30 water source.

31 (2) Contamination is affecting or likely to affect surface
32 water bodies to a level which exceeds surface water quality
33 standards under section 455B.173.

34 (3) Contamination is discovered in an ecologically
35 sensitive area. An ecologically sensitive area is one which

1 is designated by the department.

2 b. A site shall be considered medium priority if
3 contamination of groundwater exceeds action levels, but does
4 not meet the criteria for classification as a high priority
5 site.

6 c. A site shall be considered low priority under any of
7 the following conditions:

8 (1) If soil contamination exists at the site, but no
9 groundwater contamination exists at the site.

10 (2) If soil contamination exists and groundwater
11 contamination has been discovered, but is below action levels.

12 3. A site shall be reclassified as a site with a higher or
13 lower classification when the site falls within a higher or
14 lower classification as established under this section.

15 4. This section is applicable to all sites upon which
16 contamination has been discovered, unless corrective action on
17 a site has already been approved by the department and
18 completely implemented.

19 5. An initial plan of remediation shall be developed by
20 the responsible person and approved by the department for each
21 site upon which contamination has been discovered. The plan
22 of remediation shall include all of the following:

23 a. A determination as to the extent of the existing soil,
24 groundwater, or surface water contamination.

25 b. The proximity of the contamination and the likelihood
26 that the contamination will affect a drinking water well.

27 c. The characteristics of the site and the potential for
28 migration of the contamination.

29 d. A recommendation as to whether the site should be
30 classified as a high, medium, or low priority site.

31 e. If a site is classified as a high or medium priority
32 site, further investigation shall be conducted to determine
33 the extent of the remediation which should be conducted on the
34 site.

35 6. The corrective action response shall be administered as

1 follows:

2 a. For a high priority site, soil and groundwater
3 remediation shall include active remediation where technically
4 feasible, until such time as the groundwater contamination
5 levels are below action levels.

6 b. For a medium priority site, the remediation shall
7 include either monitoring or active or passive remediation as
8 determined by the department on a site-by-site basis upon
9 considering the findings of the plan of remediation. However,
10 the remediation shall at least be the same remediation
11 required if the site were classified as a low priority site.

12 c. For a low priority site, the remediation shall include
13 active soil remediation, if remediation would be more
14 practical and cost-effective than monitoring. If active soil
15 remediation is undertaken, no further action shall be required
16 on the site. If active soil remediation is not undertaken,
17 the site shall be monitored, for a specified period of time as
18 determined by the department.

19 7. Contaminated groundwater and soil shall be applied on
20 land in accordance with rules adopted by the department. The
21 application rate shall not exceed a level which precludes the
22 resumption of normal farming practices within a two-year
23 period.

24 8. This section does not affect the ability of the
25 department or the United States environmental protection
26 agency to require monitoring or remediation on sites that are
27 placed on the national priorities list pursuant to the federal
28 Comprehensive Environmental Response, Compensation and
29 Liability Act.

30 Sec. 9. NEW SECTION. 455L.7 AGRICHEMICAL REMEDIATION
31 FEES.

32 1. The department shall establish an agrichemical
33 remediation fee. The department shall set the fee as follows:

34 a. A person required to register a pesticide for
35 agricultural or horticultural use in this state shall pay an

1. agrichemical remediation fee. The fee shall be paid and
2 collected in the same manner as a fee provided pursuant to
3 section 206.12.

4 (1) For registrants required to pay the minimum fee under
5 section 206.12, the agrichemical remediation fee shall not
6 exceed fifteen dollars.

7 (2) For registrants who are required to pay more than the
8 minimum fee but less than the maximum fee under section
9 206.12, the agrichemical remediation fee shall not exceed
10 three hundred fifty dollars.

11 (3) For registrants who are required to pay the maximum
12 fee under section 206.12, the agrichemical remediation fee
13 shall not exceed one-fifth of one percent of the registrant's
14 annual gross sales of pesticides for use in this state.

15 b. A person licensed to sell or distribute commercial
16 fertilizers and soil conditioners who is required to pay an
17 inspection fee under section 200.8 shall pay an agrichemical
18 remediation fee. The fee shall be paid and collected in the
19 same manner as a fee provided pursuant to section 200.8. The
20 amount of the fee shall not be more than seventeen cents per
21 ton of fertilizers and soil conditioners.

22 2. a. Each year the department shall adjust the
23 agrichemical remediation fees necessary to ensure that the
24 unobligated and unencumbered balance of the fund, less any
25 pending or unsettled claims, at the end of the following year
26 is more than two million dollars but not more than six million
27 dollars. The department shall make any adjustments in the
28 fees by rule adopted pursuant to chapter 17A.

29 b. The board shall recommend to the department any
30 adjustments in the agrichemical fees that are necessary to
31 maintain the fund within the limits established under this
32 subsection. During its review, the board shall determine the
33 unobligated and unencumbered balance of the fund and the
34 expected debits of and credits to the fund for the following
35 year in which an agrichemical remediation fee is to be paid

1 pursuant to this section, including the amount of fees
2 expected to be collected during the following year and any
3 expected, pending, or unsettled claims. The board shall make
4 its recommendations at least thirty days before the
5 adjustments to the fees become effective. Adjustments in the
6 fees shall become effective for the next filing of a statement
7 for commercial fertilizers or soil conditioners as provided in
8 section 200.8 and the next registration of pesticides as
9 provided in section 206.12.

10 3. If, at the end of any three-month period, the
11 unobligated or unencumbered balance of the fund exceeds six
12 million dollars, less any pending or unsettled claims, the
13 department, after consultation with the board, shall waive the
14 fees which shall not be assessable or owing. The department
15 after consultation with the board shall reinstate the fees if
16 the unobligated or unencumbered balance of the fund, less any
17 pending or unsettled claims, is two million dollars or less.

18 Sec. 10. NEW SECTION. 455L.8 AGRICHEMICAL REMEDIATION
19 FUND.

20 1. An agrichemical remediation fund is created within the
21 state treasury under the control of the department.

22 2. The fund shall consist of any moneys appropriated by
23 the general assembly for placement in the fund, and moneys
24 available to and obtained or accepted by the department from
25 the federal government or private sources for placement in the
26 fund.

27 3. The fund shall be used exclusively to support
28 agrichemical remediation as provided in this chapter,
29 including the payment of claims under section 455L.10 and the
30 administration of this chapter by the board and the
31 department.

32 4. The treasurer of state shall act as custodian of the
33 fund and disburse amounts contained in the fund as directed by
34 the department, in consultation with the board. The treasurer
35 of state is authorized to invest the moneys deposited in the

1 fund. The income from such investment shall be credited to
2 and deposited in the fund. Notwithstanding section 8.33,
3 moneys in the fund are not subject to reversion to the general
4 fund of the state. The fund shall be administered by the
5 department which shall make expenditures from the fund
6 consistent with the purposes set out in this chapter. The
7 moneys in the fund shall be disbursed upon warrants drawn by
8 the director of revenue and finance pursuant to the order of
9 the department. The finances of the fund shall be calculated
10 on an accrual basis in accordance with generally accepted
11 accounting principles. The auditor of state shall regularly
12 perform audits of the fund.

13 Sec. 11. NEW SECTION. 455L.9 ELIGIBILITY OF RESPONSIBLE
14 PERSONS.

15 1. A responsible person is eligible to submit a claim to
16 the board for reimbursement from the fund, if the board
17 determines that all of the following apply:

18 a. The responsible person is not subject to any of the
19 following:

20 (1) A pending criminal adjudication against the
21 responsible person relating to the contamination.

22 (2) Criminal sanctions imposed against the responsible
23 person relating to the contamination.

24 b. Any of the following:

25 (1) The responsible person performed reasonable measures
26 necessary for the immediate abatement of any prohibited
27 release.

28 (2) The responsible person has complied or is in the
29 process of complying in a timely manner with orders issued by
30 the state or federal government for remediation of the
31 contaminated site.

32 2. Unless the department has cause to believe that the
33 responsible person is not eligible, the department shall
34 provide a statement to the responsible person upon request.
35 The statement shall be printed on forms prescribed by the

1 board. The statement shall verify that to the extent of the
2 department's knowledge, the responsible person is eligible
3 under this section. The board may use the statement as
4 evidence of eligibility. The board shall provide the
5 statement with any weight determined appropriate by the board.

6 3. The state, a state agency, a political subdivision of
7 the state, or federal government, or an agency of the federal
8 government, is not eligible to submit a claim to the board for
9 reimbursement from the fund.

10 4. A responsible person shall not be eligible to receive a
11 payment from the fund, unless the responsible person submits a
12 remediation plan to the department which is approved by the
13 board. The plan shall provide procedures for a remediation of
14 the contaminated site, a schedule for providing for the
15 remediation of the site, or the installation of passive site
16 cleanup.

17 Sec. 12. NEW SECTION. 455L.10 PAYMENT OF CLAIMS.

18 1. The board shall approve a claim against the fund to pay
19 for remediation of a contaminated site, if all of the
20 following apply:

21 a. The claim is made in a manner and according to
22 procedures established by the board.

23 b. The person filing the claim is a responsible person
24 eligible under section 455L.9.

25 c. The claim includes all of the following:

26 (1) Evidence of the contamination, including affidavits of
27 experts, photographs, or documentation by federal or state
28 agencies including the department of natural resources.

29 (2) The total amount required to pay for all costs related
30 to remediating the site as performed by a qualified person
31 according to a business invoice. The business invoice shall
32 be accompanied by supporting evidence.

33 (3) Information about any insurance policy required to
34 indemnify the responsible person for costs associated with
35 remediating the contaminated site, including a copy of the

1 policy.

2 (4) The site has been remediated according to a plan of
3 remediation approved by the board as provided in section
4 455L.9.

5 (5) The claim is complete and accurate, and contains no
6 false or misleading statements.

7 (6) The approval by the department, in consultation with
8 the board, of a comprehensive plan by the responsible person
9 for the prevention of future contamination at the site.

10 d. The responsible person submits a remediation plan to
11 the department which is approved by the board.

12 2. If the board approves a claim, the board shall
13 reimburse the responsible person by doing any of the
14 following:

15 a. Providing for the immediate payment of a claim, if the
16 board determines that the contamination causes a clear,
17 present, and impending danger to the public health or the
18 natural environment.

19 b. Providing for the ordinary payment of a claim as
20 follows:

21 (1) The board may pay the amount of the claim based on a
22 final statement submitted by a responsible person. The
23 department, in consultation with the board, may establish
24 guidelines for reasonable and necessary charges for specific
25 remediation procedures. Payment shall not exceed these
26 reasonable and necessary charges without prior approval of the
27 board.

28 (2) Upon a determination that the claim is eligible for
29 payment, the department shall provide for payment of the claim
30 as provided in this subsection.

31 c. The amount of the claim shall be the total amount
32 required to remediate the site subject to all of the
33 following:

34 (1) A deduction of five thousand dollars.

35 (2) A deduction in the amount of the insurance payments

1 owed to or received by the responsible person for
2 indemnification of remediation costs. The amount of the
3 insurance payments shall be applied first to satisfy the five
4 thousand dollar deduction required in subparagraph (1).

5 (3) After making the deductions required in subparagraphs
6 (1) and (2), the department shall provide for payment in the
7 amount of ninety percent of claims up to one hundred thousand
8 dollars, eighty percent of claims over one hundred thousand
9 dollars, but not exceeding two hundred thousand dollars, and
10 seventy percent of claims over two hundred thousand dollars up
11 to two hundred fifty thousand dollars.

12 (4) The amount of a claim shall not be more than two
13 hundred fifty thousand dollars to pay the costs of remediating
14 a contaminated site.

15 3. The board shall not provide payments from the fund
16 until the board determines that the claim is reasonable and
17 that the claimant has submitted all evidence necessary in
18 order to support the claim and any expenditure of moneys from
19 the fund. The board shall place conditions or requirements
20 upon the payment of moneys from the fund in order to ensure
21 that the moneys are used to provide remediation in compliance
22 with a remediation plan required pursuant to section 455L.9.

23 4. If at any time the department determines that there are
24 insufficient moneys in the fund to make payment of all claims,
25 the department shall pay claims according to the date that the
26 claims are received by the department. To the extent that a
27 claim cannot be fully satisfied, the department shall order
28 that the unpaid portion of the payment be deferred until the
29 claim can be satisfied. However, the department shall not
30 satisfy claims from moneys dedicated for the administration of
31 the fund.

32 5. The department shall have a claim on behalf of the fund
33 against any responsible person who files a claim in violation
34 of this chapter for the amount paid for remediation. The
35 responsible person shall be liable for damages. The moneys

1 collected by the department under this subsection shall be
2 deposited into the fund.

3 Sec. 13. NEW SECTION. 455L.11 REPORT.

4 The department in cooperation with the board shall submit a
5 report to the general assembly by January 10 of each odd-
6 numbered year. The report shall provide a summary and a
7 detailed accounting of the fund's financial condition,
8 including expected revenue and expenses during the following
9 two years.

10 EXPLANATION

11 This bill creates a new Code chapter 455L which is referred
12 to as the "Iowa Agrichemical Remediation Act". The bill
13 provides for the remediation of sites where there has been
14 contamination because of a release of pesticides or
15 fertilizers. The bill establishes an agrichemical remediation
16 board within the department of agriculture and land
17 stewardship. The board includes a farmer, and persons
18 involved in the distribution and manufacture of fertilizers
19 and pesticides. The bill provides that the board has all the
20 powers and duties to carry out the functions and duties as
21 specified in the bill. The bill requires the department to
22 establish remediation standards after consultation with the
23 board. The standards must provide for the protection of the
24 public health and safety and the environment. The bill
25 requires that separate standards shall be established for
26 contaminants in soil and groundwater.

27 The bill provides for the prioritization of sites for
28 cleanup. The bill's provision is based closely on Code
29 section 455B.601. The bill provides that a contaminated site
30 must be cleaned up based on a low, medium, or high priority
31 status. The bill requires a person to file a plan of
32 remediation with the board and institute remediation as
33 provided according to the site's priority.

34 The bill requires the department to establish an
35 agrichemical remediation fee. The fee is imposed in the same

1 way as the fee for registration of pesticides and the
2 inspection fee on fertilizers and soil conditioners. Under
3 the bill, a person required to register a pesticide for
4 agricultural or horticultural use must pay a fee. The bill
5 provides that a person licensed to sell or distribute
6 commercial fertilizers and soil conditioners who is required
7 to pay an inspection fee under Code section 200.8 must also
8 pay a fee. The bill establishes an agrichemical remediation
9 fund. The bill provides that the fund must be used
10 exclusively to support agrichemical remediation, including the
11 payment of claims and the administration of this chapter by
12 the board and the department.

13 The bill provides for the payment of claims to eligible
14 persons. A person is eligible, if the person is not subject
15 to criminal charges, the person performed reasonable measures
16 necessary for the immediate abatement of any prohibited
17 release, the person is complying with administrative orders,
18 and the person submits a remediation plan approved by the
19 board. The bill provides procedures for the payment of
20 claims, including emergency or ordinary payments. The bill
21 provides limits on the amount of reimbursement, including a
22 deductible. The bill provides that the amount of the claim
23 shall not be more than \$250,000 to pay the costs of
24 remediating a contaminated site.

25 The bill requires the department in cooperation with the
26 board to submit a report to the general assembly by January 10
27 of each odd-numbered year.

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**SENATE FILE 452
FISCAL NOTE**

A fiscal note for Senate File 452 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.

Senate File 452, creates Chapter 455L, Code of Iowa, called the Iowa Agrichemical Remediation Act. The Bill provides for the remediation of sites contaminated by pesticides or fertilizers and creates an agrichemical remediation board within the Department of Agriculture and Land Stewardship. Senate File 452 establishes an Agrichemical Remediation Fund. This Bill establishes agrichemical fees on persons required to register pesticides for agricultural and horticultural use and on persons licensed to sell or distribute commercial fertilizers and soil conditioners. The Agrichemical Remediation Fund must be used to support agrichemical remediation. Administration fees to run this Program are limited to \$100,000 or 5.0% of total revenue, whichever is greater.

ASSUMPTIONS

1. Fertilizer license fees are collected twice a year but only half of the increased Agrichemical Remediation Fees from fertilizer license fees will be collected and deposited in the Agrichemical Remediation Fund in FY 2000.
2. Total Agrichemical Remediation Fees collected from increased fertilizer license fees are estimated at \$250,000 in FY 2000 and \$552,000 in FY 2001.
3. Total Agrichemical Remediation Fees collected from increased pesticide registration fees are estimated at \$1.13 million in FY 2000 and FY 2001.
4. Administrative fees will be \$100,000 in FY 2000 and FY 2001.
5. The Department of Agriculture and Land Stewardship will require the following new positions: one Program Supervisor 3, one Secretary 2, 0.5 Engineer, 0.5 Geologist, and 0.25 Administrative Assistant 3, above the current FY 1999 funding level. The Program Supervisor 3 and Secretary 2 positions will be required for the entire year in FY 2000. The Engineer and Geologist positions will not be required until January 1, 2000, and the Administrative Assistant position will not be needed until the last three months of FY 2000. In FY 2001, all of these positions will become full-time for a total of five new FTE positions above the current FY 1999 funding level. Annual salary and support for the new FTE positions will be \$209,000 for FY 2000 and \$310,000 for FY 2001.

FISCAL IMPACT

The FY 2000 unfunded cost of Senate File 452 is estimated at approximately \$192,000 (\$292,000 less \$100,000 from administrative fees) and \$220,000

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(\$320,000 less \$100,000 from administrative fees) in FY 2001. Senate File 452 will generate approximately \$1.3 million in Agrichemical Remediation Fees in FY 2000 and approximately \$1.6 million in FY 2001.

	<u>Fiscal Year 2000</u>	<u>Fiscal Year 2001</u>
	Proposed	Proposed
	<u>Law</u>	<u>Law</u>
PROGRAM ADMINISTRATION		
<u>REVENUE</u>		
Ag. Remediation Fees	\$ 100,000	\$ 100,000
Other (unfunded cost)	192,000	220,000
Total Revenue	<u>\$ 292,000</u>	<u>\$ 320,000</u>
<u>EXPENDITURES</u>		
Salaries and Support	\$ 209,000	\$ 310,000
Vehicle/Computer Equip.	73,000	0
Board Expense/Travel	10,000	10,000
Total Expenditures	<u>\$ 292,000</u>	<u>\$ 320,000</u>
(FTE's)	(3.3)	(5.0)

	<u>Fiscal Year 2000</u>	<u>Fiscal Year 2001</u>
	Proposed	Proposed
	<u>Law</u>	<u>Law</u>
AGRICULTURE REMEDIATION FUND		
<u>REVENUE</u>		
Fertilizer Fees	\$ 250,000	\$ 552,000
Pesticide Fees	1,130,000	1,130,000
Total Revenue	<u>\$ 1,380,000</u>	<u>\$ 1,682,000</u>
Less Administrative Fee	100,000	100,000
Net Revenue	<u>\$ 1,280,000</u>	<u>\$ 1,582,000</u>

SOURCE

Department of Agriculture

(LSB 1158SV, SKW)

FILED MARCH 30, 1999

BY DENNIS PROUTY, FISCAL DIRECTOR