

# House Study Bill 651

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
NATURAL RESOURCES BILL)

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

## A BILL FOR

1 An Act relating to the disposal of solid waste by changing  
2 permitting requirements and updating and clarifying existing  
3 provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 5409DP 82  
6 tw/nh/8

PAG LIN

1 1 Section 1. Section 455B.301, Code 2007, is amended to read  
1 2 as follows:  
1 3 455B.301 DEFINITIONS.  
1 4 As used in this part 1 of division IV, unless the context  
1 5 clearly indicates a contrary intent:  
1 6 1. "Actual cost" means the operational, remedial and  
1 7 emergency action, closure, postclosure, and monitoring costs  
1 8 of a sanitary disposal project for the lifetime of the  
1 9 project.  
1 10 2. "Beneficial use" means a specific utilization of a  
1 11 solid by-product as a resource that constitutes reuse rather  
1 12 than disposal, does not adversely affect human health or the  
1 13 environment, and is approved by the department.  
1 14 ~~2- 3.~~ "Beverage" means wine as defined in section 123.3,  
1 15 subsection 37, alcoholic liquor as defined in section 123.3,  
1 16 subsection 5, beer as defined in section 123.3, subsection 7,  
1 17 wine cooler or drink, tea, potable water, soda water and  
1 18 similar carbonated soft drinks, mineral water, fruit juice,  
1 19 vegetable juice, or fruit or vegetable drinks, which are  
1 20 intended for human consumption.  
1 21 ~~3- 4.~~ "Beverage container" means a sealed glass, plastic,  
1 22 or metal bottle, can, jar, or carton containing a beverage.  
1 23 ~~4- 5.~~ "Biodegradable" means degradable through a process  
1 24 by which fungi or bacteria secrete enzymes to convert a  
1 25 complex molecular structure to simple gasses and organic  
1 26 compounds.  
1 27 ~~5- 6.~~ "Closure" means actions that will prevent, mitigate,  
1 28 or minimize the threat to public health and the environment  
1 29 posed by a closed sanitary landfill, including but not limited  
1 30 to application of final cover, grading and seeding of final  
1 31 cover, installation of an adequate monitoring system, and  
1 32 construction of ground and surface water diversion structures,  
1 33 if necessary.  
1 34 ~~6- 7.~~ "Closure plan" means the plan which specifies the  
1 35 methods and schedule by which an operator will complete or  
2 1 cease disposal operations of a sanitary disposal project,  
2 2 prepare the area for long-term care, and make the area  
2 3 suitable for other uses.  
2 4 ~~7- 8.~~ "Degradable" means capable of decomposing by  
2 5 biodegradation, photodegradation, or chemical process into  
2 6 harmless component parts after exposure to natural elements  
2 7 for not more than three hundred sixty-five days.  
2 8 ~~8- 9.~~ "Financial assurance instrument" means an instrument  
2 9 submitted by an applicant to ensure the operator's financial  
2 10 capability to provide reasonable and necessary ~~response during~~  
2 11 remedial responses.  
2 12 a. The instrument shall be sufficient to ensure adequate  
2 13 response throughout the lifetime of the project and for the  
~~2 14 thirty years a period of time following the project's closure,~~  
~~2 15 and to provide for the closure of the facility and postclosure~~  
~~2 16 care required by rules adopted by the commission in the event~~  
~~2 17 that the operator fails to correctly perform closure and~~  
~~2 18 postclosure care requirements as determined by the commission~~

2 19 by rule.  
2 20 b. The instrument shall be sufficient to ensure the proper  
2 21 closure and postclosure care of the project in the event the  
2 22 operator fails to correctly perform those requirements.  
2 23 c. The form instrument may include the provide for one or  
2 24 more of the following:  
2 25 (1) The establishment of a secured trust fund.  
2 26 (2) The use of a cash or surety bond, or the  
2 27 (3) The obtaining of insurance.  
2 28 (4) The satisfaction of a corporate financial test.  
2 29 (5) The satisfaction of a local government financial test.  
2 30 (6) The obtaining of a corporate guarantee.  
2 31 (7) The obtaining of a local government guarantee.  
2 32 (8) The use of a local government dedicated fund.  
2 33 (9) The obtaining of an irrevocable letter of credit.  
2 34 ~~8A- 10.~~ "Incinerator" means any enclosed device using  
2 35 controlled flame combustion that does not meet the criteria  
3 1 for classification as a boiler and is not listed as an  
3 2 industrial furnace. "Incinerator" does not include thermal  
3 3 oxidizers used for the treatment of gas emissions.  
3 4 ~~9- 11.~~ "Leachate" means fluid that has percolated through  
3 5 solid waste and which contains contaminants consisting of  
3 6 dissolved or suspended materials, chemicals, or microbial  
3 7 waste products from the solid waste.  
3 8 ~~10- 12.~~ "Lifetime of the project" means the projected  
3 9 period of years that a landfill will receive waste, from the  
3 10 time of opening until closure, based on the volume of waste to  
3 11 be received projected at the time of submittal of the initial  
3 12 project plan and the calculated refuse capacity of the  
3 13 landfill based upon the design of the project.  
3 14 ~~11- 13.~~ "Manufacturer" means a person who by labor, art,  
3 15 or skill transforms raw material into a finished product or  
3 16 article of trade.  
3 17 ~~12- 14.~~ "Photodegradable" means degradable through a  
3 18 process in which ultraviolet radiation in sunlight causes a  
3 19 chemical change in a material.  
3 20 ~~13- 15.~~ "Postclosure" and "postclosure care" mean the time  
3 21 and actions taken for the care, maintenance, and monitoring of  
3 22 a sanitary disposal project after closure that will prevent,  
3 23 mitigate, or minimize the threat to public health, safety, and  
3 24 welfare and the threat to the environment posed by the closed  
3 25 facility.  
3 26 ~~14- 16.~~ "Postclosure plan" means the plan which specifies  
3 27 the methods and schedule by which the operator will perform  
3 28 the necessary monitoring and care for the area after closure  
3 29 of a sanitary disposal project.  
3 30 ~~15- 17.~~ "Private agency" means a private agency as defined  
3 31 in section 28E.2.  
3 32 ~~16- 18.~~ "Public agency" means a public agency as defined  
3 33 in section 28E.2.  
3 34 ~~17- 19.~~ "Resource recovery system" means the recovery and  
3 35 separation of ferrous metals and nonferrous metals and glass  
4 1 and aluminum and the preparation and burning of solid waste as  
4 2 fuel for the production of electricity.  
4 3 ~~20.~~ "Rubble" means dirt, stone, brick, or similar  
4 4 inorganic materials used for beneficial fill, landscaping,  
4 5 excavation, or grading at places other than a sanitary  
4 6 disposal project. "Rubble" includes asphalt waste only as  
4 7 long as it is not used in contact with water in a floodplain.  
4 8 For purposes of this chapter, "rubble" does not mean coal  
4 9 combustion residue, foundry sand, or other industrial process  
4 10 wastes unless those wastes are approved by the department.  
4 11 ~~18- 21.~~ "Sanitary disposal project" means all facilities  
4 12 and appurtenances including all real and personal property  
4 13 connected with such facilities, which are acquired, purchased,  
4 14 constructed, reconstructed, equipped, improved, extended,  
4 15 maintained, or operated to facilitate the final disposition of  
4 16 solid waste without creating a significant hazard to the  
4 17 public health or safety, and which are approved by the  
4 18 executive director.  
4 19 ~~19- 22.~~ "Sanitary landfill" means a sanitary disposal  
4 20 project where solid waste is buried between layers of earth.  
4 21 ~~20- 23.~~ "Solid waste" means garbage, refuse, rubbish, and  
4 22 other similar discarded solid or semisolid materials,  
4 23 including but not limited to such materials resulting from  
4 24 industrial, commercial, agricultural, and domestic activities.  
4 25 Solid waste may include vehicles, as defined by section 321.1,  
4 26 subsection 90. ~~However, this division does not prohibit the~~  
4 27 ~~use of dirt, stone, brick, or similar inorganic material for~~  
4 28 ~~fill, landscaping, excavation or grading at places other than~~  
4 29 This definition does not prohibit the use of rubble at places

4 30 other than a sanitary disposal project. ~~Solid waste "Solid~~  
4 31 ~~waste" does not include hazardous waste as defined in section~~  
4 32 ~~455B.411 or source, any of the following:~~  
4 33 a. Hazardous waste regulated under the federal Resource  
4 34 Conservation and Recovery Act, 42 U.S.C. } 6921=6934.  
4 35 b. Hazardous waste as defined in section 455B.411, except  
5 1 to the extent that rules allowing for the disposal of specific  
5 2 wastes have been adopted by the commission.

5 3 c. Source, special nuclear, or by-product material as  
5 4 defined in the Atomic Energy Act of 1954, as amended to  
5 5 January 1, 1979, or petroleum.  
5 6 d. Petroleum contaminated soil which that has been  
5 7 remediated to acceptable state or federal standards.  
5 8 Sec. 2. Section 455B.304, subsections 2, 11, and 17, Code  
5 9 2007, are amended to read as follows:

5 10 2. The commission shall adopt rules that allow the use of  
5 11 wet or dry sludge from publicly owned treatment works for land  
5 12 application. A sale of wet or dry sludge for the purpose of  
5 13 land application shall be accompanied by a written agreement  
5 14 signed by both parties which contains a general analysis of  
5 15 the contents of the sludge. The heavy metal content of the  
5 16 sludge shall not exceed that allowed by rules of the  
5 17 commission. An owner of a publicly owned treatment works  
5 18 which sells wet or dry sludge is not subject to any action by  
5 19 the purchaser to recover damages for harm to person or  
5 20 property caused by sludge that is delivered pursuant to a sale  
5 21 unless it is a result of a violation of the written agreement  
5 22 or if the heavy metal content of the sludge exceeds that  
5 23 allowed by rules of the commission. Nothing in this section  
5 24 shall provide immunity to any person from action by the  
5 25 department pursuant to section 455B.307. ~~The rules adopted~~  
5 26 ~~under this subsection shall be generally consistent with those~~  
5 27 ~~rules of the department existing on January 1, 1982, regarding~~  
5 28 ~~the land application of municipal sewage sludge except that~~  
5 29 ~~they may provide for different methods of application for wet~~  
5 30 ~~sludge and dry sludge.~~

5 31 11. ~~By July 1, 1990, a A sanitary landfill disposal~~  
5 32 ~~project operating with a permit shall have a trained, tested,~~  
5 33 ~~and certified operator. A certification program shall be~~  
5 34 ~~devised or approved by rule of the department. The department~~  
5 35 ~~shall adopt by rule a certification program.~~

6 1 17. The commission shall adopt rules to establish a  
6 2 special waste authorization program. For purposes of this  
6 3 subsection, "special waste" means any industrial process  
6 4 waste, pollution control waste, or toxic waste which presents  
6 5 a threat to human health or the environment or a waste with  
6 6 inherent properties which make the disposal of the waste in a  
6 7 sanitary landfill difficult to manage. Special waste does not  
6 8 include domestic, office, commercial, medical, or industrial  
6 9 waste that does not require special handling or limitations on  
6 10 its disposal. Special waste does not include hazardous wastes  
6 11 which are regulated under the federal Resource Conservation  
6 12 and Recovery Act, 42 U.S.C. } 6921=6934, ~~or hazardous wastes~~  
6 13 ~~as defined in section 455B.411, subsection 3 nor does it~~  
6 14 include hazardous waste as defined in section 455B.411, except  
6 15 to the extent that the commission has adopted rules allowing  
6 16 the disposal of certain wastes.

6 17 Sec. 3. Section 455B.304, Code 2007, is amended by adding  
6 18 the following new subsection:

6 19 NEW SUBSECTION. 19. The commission shall adopt rules for  
6 20 determining when the utilization of a solid by-product  
6 21 constitutes beneficial use rather than the disposal of solid  
6 22 waste. Materials approved for beneficial use at a sanitary  
6 23 landfill shall be exempt from the tonnage fee imposed by  
6 24 section 455B.310 to the extent authorized by rule or permit.

6 25 Sec. 4. Section 455B.305, Code 2007, is amended to read as  
6 26 follows:

6 27 455B.305 ISSUANCE OR RENEWAL OF PERMITS BY DIRECTOR.

6 28 1. The director shall issue, revoke, suspend, modify, or  
6 29 deny permits for the construction and operation of sanitary  
6 30 disposal projects.

6 31 a. A permit shall be issued by the director or, at the  
6 32 director's direction, by a local board of health, for each  
6 33 sanitary disposal project operated in this state. The permit  
6 34 shall be issued in the name of the city or county or, where  
6 35 applicable, in the name of the public or private agency  
7 1 operating the project. Permits issued pursuant to this  
7 2 section are in addition to any other licenses, permits, or  
7 3 variances authorized or required by law, including but not  
7 4 limited to chapter 335.

7 5 b. Each sanitary disposal project shall be inspected

~~7 6 annually periodically by the department or a local board of  
7 7 health. The permits issued pursuant to this section are in  
7 8 addition to any other licenses, permits or variances  
7 9 authorized or required by law, including, but not limited to,  
7 10 chapter 335.~~

~~7 11 c. A permit may be suspended or revoked by the director if  
7 12 a sanitary disposal project is found not to meet the  
7 13 requirements of part 1 or the rules issued under adopted  
7 14 pursuant to part 1. The suspension or revocation of a permit  
7 15 may be appealed to the department.~~

~~7 16 2. Beginning July 1, 1988, the director shall not issue a  
7 17 permit for the construction or operation of a new sanitary  
7 18 disposal project unless the permit applicant, in conjunction  
7 19 with all local governments using the sanitary disposal  
7 20 project, has filed a plan as required by section 455B.306.  
7 21 For those sections for which the department has not developed  
7 22 rules, the permit shall contain conditions and a schedule for  
7 23 meeting all applicable requirements of section 455B.306.~~

~~7 24 3. Beginning July 1, 1988, the director shall not renew or  
7 25 reissue a permit which had been initially issued prior to that  
7 26 date for a sanitary disposal project, unless the permit  
7 27 applicant, in conjunction with all local governments using the  
7 28 sanitary disposal project, has filed a plan as required by  
7 29 section 455B.306. For those sections for which the department  
7 30 has not developed rules, the permit shall contain conditions  
7 31 and a schedule for meeting all applicable requirements of  
7 32 section 455B.306.~~

~~7 33 4. Beginning July 1, 1994, the director shall not renew or  
7 34 reissue a permit which had been initially issued or renewed  
7 35 prior to that date for a sanitary disposal project, unless and  
8 1 until the permit applicant, in conjunction with all local  
8 2 governments using the sanitary disposal project, documents  
8 3 that steps are being taken to begin implementing the plan  
8 4 filed pursuant to section 455B.306. For those sections for  
8 5 which the department has not developed rules, the permit shall  
8 6 contain conditions and a schedule for meeting all applicable  
8 7 requirements of section 455B.306. However, a permit may be  
8 8 issued for the construction and operation of a new sanitary  
8 9 disposal project in accordance with subsection 2.~~

~~8 10 5. Beginning July 1, 1997, the director shall not renew or  
8 11 reissue a permit which had been renewed or reissued prior to  
8 12 that date for a sanitary landfill, unless and until the permit  
8 13 applicant, in conjunction with all local governments using the  
8 14 landfill, documents that alternative methods of solid waste  
8 15 disposal other than use of a sanitary landfill have been  
8 16 implemented as set forth in the plan filed pursuant to section  
8 17 455B.306. However, the director may issue a permit for the  
8 18 construction and operation of a new sanitary landfill in  
8 19 accordance with subsection 2 and a permit may be renewed or  
8 20 reissued for a sanitary landfill which had received an initial  
8 21 permit but the permit had not been previously renewed or  
8 22 reissued prior to July 1, 1997 in accordance with subsection  
8 23 3.~~

~~8 24 After July 1, 1997, however, no new landfill permits shall  
8 25 be issued unless the applicant, in conjunction with all local  
8 26 governments which will use the landfill, certifies that the  
8 27 landfill is needed as a part of an alternative disposal  
8 28 method, or unless the applicant provides documentation which  
8 29 satisfies the director that alternatives have been studied and  
8 30 are not either technically or economically feasible. The  
8 31 decision of the director is subject to review by the  
8 32 commission at its next meeting.~~

~~8 33 6. Beginning July 1, 1992, the director shall not issue a  
8 34 permit for a sanitary landfill unless the sanitary landfill is  
8 35 equipped with a leachate control system. Beginning July 1,  
9 1 1994, the director shall not renew or reissue a permit for an  
9 2 existing sanitary landfill unless the sanitary landfill is  
9 3 equipped with a leachate control system. During the period  
9 4 from July 1, 1992, through June 30, 1994, the director may  
9 5 require an existing sanitary landfill to install a leachate  
9 6 control system if leachate from the sanitary landfill is  
9 7 adversely impacting the public health or safety or the  
9 8 environment. During the period from July 1, 1992, through  
9 9 June 30, 1994, the director shall require an existing sanitary  
9 10 landfill to install a leachate control system if the sanitary  
9 11 landfill has not submitted a completed hydrogeological plan to  
9 12 the department. The director may exempt a permit applicant  
9 13 from these requirements if the director determines that  
9 14 certain conditions regarding, but not limited to, existing  
9 15 physical conditions, topography, soil, geology, and climate,  
9 16 are such that a leachate control system is unnecessary. The~~

~~9 17 director may exempt a permit applicant from the requirements  
9 18 of this subsection if the permittee certifies that a risk  
9 19 assessment of the site indicates that a current or potential  
9 20 threat to environmental health does not exist such that an  
9 21 exposed individual has no greater than a one in one million  
9 22 risk of developing cancer and for noncarcinogens a hazard  
9 23 index of less than one. The director shall use the United  
9 24 States environmental protection agency's risk assessment  
9 25 guidance for the superfund as a basis for determining whether  
9 26 to grant the exemption. The exemption in this subsection  
9 27 shall apply only to sanitary landfill cells in existence prior  
9 28 to July 1, 1992, or the vertical expansion above a cell in  
9 29 which waste was deposited prior to July 1, 1992. A sanitary  
9 30 landfill permittee desiring an exemption shall apply to the  
9 31 director and certify a completion date for a risk assessment  
9 32 study by December 1, 1994. If an exemption is not granted, or  
9 33 if the risk assessment study concludes that a leachate control  
9 34 system is required, a permittee shall certify a completion  
9 35 date and increments of progress for the installation of a  
10 1 leachate control system. The department shall retain the  
10 2 discretion to approve or disapprove a risk assessment study or  
10 3 a proposed completion date under this subsection. If a  
10 4 schedule for a risk assessment study or the installation of a  
10 5 leachate control system is approved by the department and  
10 6 satisfactory progress is being made toward completion of the  
10 7 study or the installation of the leachate control system, the  
10 8 permittee shall not be subject to penalties for failure to  
10 9 meet the requirements of this subsection.~~

10 10 2. The director shall not issue or renew a permit for a  
10 11 municipal solid waste landfill unless the permit applicant, in  
10 12 conjunction with all local governments using the landfill, has  
10 13 documented its implementation of solid waste disposal methods  
10 14 other than final disposal in a sanitary landfill.

10 15 3. The director shall not issue or renew a permit for a  
10 16 sanitary landfill unless the landfill is equipped with a  
10 17 leachate control system.

10 18 ~~7- 4. The director shall not issue or renew a permit for a  
10 19 transfer station operating as part of an agreement between two  
10 20 planning areas pursuant to section 455B.306, subsection 2,  
10 21 until unless the applicant, in conjunction with all local  
10 22 governments using the transfer station, documents that  
10 23 alternative methods of solid waste disposal other than final  
10 24 disposal in a sanitary landfill have been implemented as set  
10 25 forth in the plan filed pursuant to section 455B.306 has  
10 26 documented its implementation of solid waste disposal methods  
10 27 other than final disposal in a sanitary landfill.~~

10 28 Sec. 5. Section 455B.306, subsections 1 and 2, Code  
10 29 Supplement 2007, are amended to read as follows:

10 30 1. A city, county, ~~and a~~ or private agency operating, or  
10 31 planning to operate, a municipal solid waste sanitary disposal  
10 32 project shall file with the director one of two types of  
10 33 comprehensive plans detailing the method by which the city,  
10 34 county, or private agency will comply with this part 1. The  
10 35 first type is a comprehensive plan in which solid waste is  
11 1 disposed of in a sanitary landfill within the planning area.  
11 2 The second type is a comprehensive plan in which all solid  
11 3 waste is consolidated at, and transported from, a transfer  
11 4 station for disposal at a sanitary landfill in another  
11 5 comprehensive planning area.

11 6 a. All cities and counties shall also file with the  
11 7 director a comprehensive plan detailing the method by which  
11 8 the city or county will comply with the requirements of  
11 9 section 455B.302 to establish and implement a comprehensive  
11 10 solid waste reduction program for its residents.

11 11 b. ~~For the purposes of this section, a~~ A public agency  
11 12 managing the waste stream for cities or counties pursuant to  
11 13 chapter 28E, shall file one comprehensive plan on behalf of  
11 14 its members, which, Filing of a comprehensive plan  
11 15 constitutes full compliance by the public agency's members  
11 16 with the filing requirements of this section.

11 17 c. If both a public agency managing the waste stream for a  
11 18 city or county pursuant to chapter 28E, and one or more of the  
11 19 public agency's member cities or counties file a comprehensive  
11 20 plan under this subsection, the director shall, following  
11 21 notice to the agency, make a determination that any plan filed  
11 22 by a member city or county is compatible with the  
11 23 comprehensive plan of the chapter 28E public agency. If the  
11 24 director determines that ~~the comprehensive plan of a city~~  
11 25 city's or county county's comprehensive plan is not compatible  
11 26 with the comprehensive plan of a ~~chapter 28E~~ public agency, as  
11 27 defined in chapter 28E, the director shall require the city or

11 28 county to provide justification for the approval of the  
11 29 comprehensive plan based upon the following factors: the  
11 30 innovative nature of the comprehensive plan, the urgency of  
11 31 the plan's implementation, ~~or other any~~ unique features of the  
11 32 city's or county's comprehensive plan ~~of the city or county,~~  
~~11 33 and that, and whether~~ the plan otherwise complies with the  
11 34 provisions of this chapter.

11 35 d. This subsection does not prevent the director from  
12 1 approving pilot projects which otherwise comply with the  
12 2 provisions of this chapter.

12 3 e. The director shall review each comprehensive plan  
12 4 submitted and may reject, suggest modification, or approve the  
12 5 proposed plan. The director shall aid in the development of  
12 6 comprehensive plans for compliance with this part. The  
12 7 director shall make available to ~~a city, county, and private~~  
~~12 8 agency appropriate cities, counties, and private agencies the~~  
12 9 forms appropriate for the submission of comprehensive plans,  
12 10 and the director may hold hearings for the purpose of  
12 11 implementing this part.

12 12 f. The director, and any governmental agencies with  
12 13 primary responsibility for the development and conservation of  
12 14 energy resources, shall provide research and assistance, when  
12 15 cities and counties operating, or planning to operate,  
12 16 sanitary disposal projects request aid in planning and  
12 17 implementing resource recovery systems.

12 18 g. A comprehensive plan filed by a private agency  
12 19 operating, or planning to operate, a sanitary disposal project  
12 20 required ~~pursuant to by~~ section 455B.302 shall be developed in  
12 21 cooperation and consultation with the city or county  
12 22 responsible ~~to provide for the establishment and operation of~~  
12 23 for establishing and operating a sanitary disposal project.

12 24 h. ~~The director shall review a completed plan for the~~  
12 25 control and treatment of leachate, ~~submitted to meet the~~  
12 26 requirements of section ~~455B.305~~ 455B.306, subsection 6, ~~shall~~  
~~12 27 be reviewed by the director, and the director 7, paragraph~~  
12 28 "b", and shall reject the plan, suggest modifications, or  
12 29 approve ~~the completed plan it~~ within six months of submittal  
12 30 ~~of the plan the time the plan was submitted. If no action is~~  
12 31 ~~taken the director has not acted on the plan within the~~  
12 32 ~~six-month period those six months~~, the plan shall be  
12 33 considered approved. However, the director, upon a request to  
12 34 renew or reissue a previously issued permit may require  
12 35 updating of the plan at the time of renewal or reissuance of a  
13 1 ~~previously issued permit that the plan be updated.~~

13 2 2. A planning area that closes all of the municipal solid  
13 3 waste sanitary landfills located in the planning area and  
13 4 chooses instead to use a municipal solid waste sanitary  
13 5 landfill in another planning area that may choose to retain  
13 6 its autonomy as long as the sanitary landfill in the other  
13 7 planning area complies with all the requirements under  
13 8 subtitle D of the federal Resource Conservation and Recovery  
13 9 Act, with of this chapter, and all solid waste generated  
13 10 within the planning area being closing its landfills is  
13 11 consolidated at, and transported from, a permitted transfer  
13 12 station, may elect to retain autonomy as a planning area and,  
13 13 For purposes of this subsection, a planning area closing its  
13 14 own landfills that chooses to retain its autonomy shall not be  
13 15 required to join the planning area ~~where the that contains the~~  
13 16 landfill being used it is using for final disposal of its  
13 17 solid waste is located.

13 18 a. If a planning area ~~makes the election under~~ chooses to  
13 19 retain autonomy pursuant to this subsection, the planning area  
13 20 receiving the solid waste from the planning area making the  
13 21 election sending it shall not be required to include the  
13 22 planning area making the election in a sending planning area  
13 23 in its comprehensive plan provided that no services other than  
13 24 the acceptance of solid waste for disposal are shared between  
13 25 the two planning areas ~~other than the acceptance of solid~~  
13 26 ~~waste for disposal at a sanitary landfill. The A~~ planning  
13 27 area receiving ~~the~~ solid waste shall only be responsible for  
13 28 the permitting, planning, and waste reduction and diversion  
13 29 programs ~~in the planning area receiving the solid waste within~~  
13 30 that planning area.

13 31 b. If the department determines that solid waste cannot  
13 32 reasonably be consolidated and transported from a particular  
13 33 transfer station, the department may establish permit  
13 34 conditions to address the transport and disposal of the solid  
13 35 waste. An election may be made A planning area sending solid  
14 1 waste for disposal in another planning area may retain  
14 2 autonomy under this subsection only if the two both  
14 3 comprehensive planning areas enter into an agreement pursuant

14 4 to chapter 28E that includes, ~~at a minimum,~~ all of the  
14 5 following:

14 6 ~~a. (1)~~ A detailed methodology of the manner in which solid  
14 7 waste will be tracked and reported between the two planning  
14 8 areas.

14 9 ~~b. (2)~~ A detailed methodology of the manner in which the  
14 10 receiving sanitary landfill will collect, remit, and report  
14 11 tonnage fees, pursuant to section 455B.310, paid by the  
14 12 planning area that is transporting the solid waste. The  
14 13 methodology shall include both the remittances of tonnage fees  
14 14 to the state and the retained tonnage fees.

14 15 Sec. 6. Section 455B.306, subsection 7, paragraph b, Code  
14 16 Supplement 2007, is amended to read as follows:

14 17 b. A plan for the control and treatment of leachate,  
14 18 including financial considerations proposed in meeting the  
14 19 costs of control and treatment in order to meet the  
14 20 requirements of section 455B.305, subsection ~~6~~ 3.

14 21 Sec. 7. Section 455B.306, subsections 9 and 12, Code  
14 22 Supplement 2007, are amended to read as follows:

14 23 9. In addition to the comprehensive plan filed pursuant to  
14 24 subsection 1, a person operating, or proposing to operate, a  
14 25 sanitary disposal project shall provide a financial assurance  
14 26 instrument to the department prior to the initial approval of  
14 27 a permit or prior to the renewal of a permit for an existing  
14 28 or expanding facility beginning July 1, 1988.

14 29 a. The financial assurance instrument shall meet all  
14 30 requirements adopted by rule by the commission, and shall not  
14 31 be canceled, revoked, disbursed, released, or allowed to  
14 32 terminate without the approval of the department. Following  
14 33 the cessation of operation or the closure of a sanitary  
14 34 disposal project, neither the guarantor nor the operator shall  
14 35 cancel, revoke, or disburse the financial assurance instrument  
15 1 or allow the instrument to terminate until the operator is  
15 2 released from closure, postclosure, and monitoring  
15 3 responsibilities.

15 4 b. The operator of a sanitary landfill shall maintain  
15 5 closure, and postclosure accounts. The commission shall adopt  
15 6 by rule the amounts to be contributed to the accounts based  
15 7 upon the amount of solid waste received by the facility. The  
15 8 accounts established shall be specific to the facility.

15 9 (1) Money in the accounts shall not be assigned for the  
15 10 benefit of creditors with the exception of the state.

15 11 (2) Money in an account shall not be used to pay any final  
15 12 judgment against a licensee arising out of the ownership or  
15 13 operation of the site during its active life or after closure.

15 14 (3) Conditions under which the department may gain access  
15 15 to the accounts and circumstances under which the accounts may  
15 16 be released to the operator after closure and postclosure  
15 17 responsibilities have been met, shall be established by the  
15 18 commission.

15 19 c. The commission shall adopt by rule the minimum amounts  
15 20 of financial responsibility for sanitary disposal projects.

15 21 d. Financial assurance instruments may include ~~instruments~~  
15 22 ~~such as cash or surety bond, a letter of credit, a secured~~  
15 23 ~~trust fund, or a corporate guarantee any of the instruments~~  
15 24 ~~described in section 455B.301, subsection 9.~~

15 25 e. The annual financial statement submitted to the  
15 26 department pursuant to subsection 7, paragraph "c", shall  
15 27 include the current amounts established in each of the  
15 28 accounts and the projected amounts to be deposited in the  
15 29 accounts in the following year.

15 30 12. This section shall not apply to a sanitary landfill  
15 31 project owned by an electric generating facility and used  
15 32 exclusively for the disposal of coal combustion residue.  
15 33 ~~Notwithstanding section 455B.301, subsection 8, a utility~~  
15 34 ~~under this subsection may demonstrate financial assurance~~  
15 35 ~~through the use of a secured trust fund, a cash or surety~~  
16 1 ~~bond, a corporate financial test as provided by the~~  
16 2 ~~department, the obtaining of an irrevocable letter of credit,~~  
16 3 ~~or an alternative method as provided by the department. A~~  
16 4 ~~utility under this subsection may demonstrate financial~~  
16 5 ~~assurance by any of the instruments described in section~~  
16 6 ~~455B.301, subsection 9, or by an alternative method acceptable~~  
16 7 ~~to the department.~~ The financial assurance instrument  
16 8 submitted must ensure the facility's financial capability to  
16 9 provide reasonable and necessary response during the lifetime  
16 10 of the project and for a specified period of time following  
16 11 closure as required by rules adopted by the commission.

16 12 EXPLANATION

16 13 This bill relates to solid waste disposal and sanitary  
16 14 landfills.

16 15 The bill modifies certain definitions of terms related to  
16 16 solid waste, removes outdated language, and clarifies some  
16 17 provisions.  
16 18 The bill broadens the definition of a "financial assurance  
16 19 instrument", which must be submitted by the operator of a  
16 20 sanitary disposal project, and adds a definition of "rubble".  
16 21 The bill directs the department of natural resources to  
16 22 adopt rules for determining when the utilization of a solid  
16 23 by-product constitutes beneficial use, and it makes necessary  
16 24 related changes such as defining "beneficial use". The bill  
16 25 provides that any materials constituting such a beneficial use  
16 26 are exempt from certain tonnage fees.  
16 27 Currently, the Code contains provisions preventing the  
16 28 director of the department of natural resources from issuing  
16 29 permits for solid waste disposal facilities unless certain  
16 30 required comprehensive plans have been filed. Those  
16 31 provisions specify dates on which the director was to begin  
16 32 requiring such plans, but those dates have passed. The bill  
16 33 simplifies the provisions governing the issuance and renewal  
16 34 of solid waste permits by removing and updating the provisions  
16 35 containing the outdated language.  
17 1 LSB 5409DP 82  
17 2 tw/nh/8