

F I N A L . R E P O R T

HAZARDOUS WASTE DISPOSAL SITE STUDY COMMITTEE

January, 1986

The Hazardous Waste Disposal Site Study Committee was established by the Legislative Council to review Iowa's hazardous waste disposal laws and study the issue of whether the state should develop a state-owned hazardous waste disposal facility. The membership was chosen without regard to standing committee membership.

Members serving on the Committee were:

Senator Michael E. Gronstal, Co-chairperson
Representative Ralph Rosenberg, Co-chairperson
Senator Charles Bruner
Senator Joy Corning
Senator Alvin Miller
Senator Dale Tieden
Representative Jack Hatch
Representative Don Shoultz
Representative Mike Van Camp
Representative Richard Welden

MEETING AND HEARINGS

The Committee was initially authorized to have three meetings. It subsequently received permission from the Legislative Council to hold a joint public hearing with the Water Quality Study Committee.

The initial meeting of the Committee was held on September 18, 1985. The morning session of the meeting was a joint meeting held in conjunction with the Water Quality Study Committee. At the joint session, the Department of Water, Air and Waste Management made a lengthy presentation regarding hazardous waste and water quality issues confronting the state. The afternoon portion of the initial meeting was held separately from the Water Quality Study Committee. The Committee heard presentations by Representative Jack Hatch regarding information he had collected regarding the Des Moines TCE superfund site, Patrick Breheny of the Federal Emergency Management Agency regarding the need for advance planning regarding hazardous conditions, and Jerry Mitchell of the University of Iowa's Department of Urban and Regional Research relating to a Legislative Extended Assistance Grant project reviewing the adequacy of Iowa's hazardous waste laws.

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In conjunction with the Water Quality Study Committee, the Committee held a series of public hearings to gather public input on the magnitude of the hazardous waste and water quality problems in the state and the public opinion regarding various approaches of dealing with the problem including the possibility of a state-owned hazardous waste disposal facility. The public hearings were held in Waukon on October 15; Des Moines, Waterloo, and Clinton on October 16; Cedar Rapids on October 21; and Storm Lake on October 28.

After the public hearings, the Committee held two additional meetings. The first meeting was held on November 14. At that meeting the Committee received several presentations. Allan Stokes made a presentation on behalf of the Department of Water, Air and Waste Management relating specifically to hazardous waste management issues. Jack Walters of the Office of Disaster Services made a presentation regarding responses to hazardous substance emergencies. Judith Hoffman of the Iowa League of Women Voters made a presentation regarding household and small quantity generator hazardous waste. Jack Soener represented the Iowa Association of Business and Industry and presented the Association's view regarding Iowa's hazardous waste problems and the approach that should be taken in managing them. Steve Mahfood of the Missouri Environmental Improvement and Energy Resources Authority made a presentation regarding the functions of his agency and Missouri's progress on hazardous waste management. Kyle Krewson made a presentation of the Iowa Chapter of the Sierra Club and Marc Gottschalk made a presentation on behalf of the Iowa Citizen Action Network. Jean Coleman made a presentation on behalf of several University of Iowa Graduate students who have been researching Iowa's hazardous waste management plan.

The Committee's final meeting was held on December 18, 1985. At the meeting the Committee approved several bills and a resolution. Three of the bills approved will be part of the Department of Water, Air and Waste Management's legislative proposals. The Committee also formally requested the Department of Water, Air and Waste Management to provide a list of possible ways to generate more money for the hazardous waste remedial fund.

RECOMMENDATIONS

The Committee approved the following bills and resolution and recommended them to the appropriate standing committees of the Legislature. Copies of the recommended bills and resolutions are attached. The recommendations are:

1. An Act to establish an Iowa environmental improvement and energy resources authority.

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2. An Act requiring specific criteria for the acquisition, selection, or approval of a site for a hazardous waste treatment, disposal, or storage facility.

3. An Act relating to the testing and sale or advertisement of water sold in containers for public consumption, and providing a penalty.

4. An Act relating to sanitary disposal projects.

5. An Act relating to state implementation of the federal Resource Conservation and Recovery Act permit program for hazardous waste facilities.

6. An Act relating to the authority of the Department of Water, Air and Waste Management over hazardous substances and hazardous conditions.

7. An Act providing for modifications of the authority of the Department of Water, Air and Waste Management over water pollution, flood plain construction, and water use.

8. An Act relating to the authority of the Department of Water, Air and Waste Management to remove and compel removal of hazardous substances or hazardous wastes.

9. A Resolution supporting the negotiation of agreements or arrangements with surrounding and other states which provide for the establishment of separate, specialized treatment centers for various kinds of hazardous waste which would be open to those states.

SENATE/HOUSE FILE _____
BY (PROPOSED COMMITTEE ON ENERGY
AND ENVIRONMENTAL PROTECTION
BILL BY HAZARDOUS WASTE
DISPOSAL SITE STUDY COMMITTEE)

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

A BILL FOR

1 An Act to establish an Iowa environmental improvement and energy
2 resources authority.

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

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1 Section 1. NEW SECTION. 455E.1 LEGISLATIVE FINDINGS --
2 PURPOSE.

3 The general assembly finds as follows:

4 1. The establishment of the authority is in all respects
5 for the benefit of the people of the state of Iowa, for the
6 improvement of their health and welfare, and for the promotion
7 of the economy, which are public purposes.

8 2. The authority will be performing an essential
9 governmental function in the exercise of the powers and duties
10 conferred upon it by this chapter.

11 3. There is a need to have adequate facilities in the
12 state to abate or prevent pollution of the air, water, and
13 land of the state.

14 4. There is a need to develop energy resources, especially
15 alternative energy resources, in the state.

16 5. There is a need to assure adequate availability of
17 financing with reasonable rates and terms for the development
18 of environmental protection facilities and energy resource
19 production facilities in the state.

20 Sec. 2. NEW SECTION. 455E.2 DEFINITIONS.

21 As used in this chapter, unless the context otherwise
22 requires:

23 1. "Authority" means the Iowa environmental improvement
24 and energy resources authority.

25 2. "Disposal of solid waste" means the entire process of
26 storage, collection, transportation, processing, and disposal
27 of solid wastes.

28 3. "Pollution" means the placing of any noxious substance
29 in the air or waters or on the lands of this state in
30 sufficient quantity and of such amounts, characteristics, and
31 duration as to injure or harm the public health or welfare,
32 animal life, or property.

33 4. "Project" means a facility, which may include land,
34 disposal areas, incinerators, buildings, fixtures, machinery,
35 and equipment acquired or constructed, or to be acquired or

1 constructed by the authority for the purpose of disposal of
2 solid waste, preventing or reducing pollution, or developing
3 energy resources.

4 5. "Solid waste" means garbage, refuse, discarded
5 materials, and undesirable solid and semisolid residual matter
6 resulting from industrial, commercial, agricultural, or
7 community activities in such amounts, characteristics, and
8 duration as to injure or harm the public health or welfare or
9 animal life or property.

10 6. "Synthetic fuel" means a solid, liquid, gas, or
11 combination of these, which can be used as a substitute for
12 petroleum, natural gas, or any derivatives of them, including
13 chemical feedstocks, and which is produced by chemical or
14 physical transformation, other than washing, cooking, or
15 desulfurizing of domestic sources of coal, including lignite
16 and peat; shale; tar sands, including heavy oils; water as a
17 source of hydrogen only through electrolysis; and mixtures of
18 coal and combustible liquids including petroleum.

19 Sec. 3. NEW SECTION. 455E.3 ESTABLISHMENT OF AUTHORITY.

20 1. The Iowa environmental improvement and energy resources
21 authority is established as a public instrumentality and
22 agency of the state exercising public and essential
23 governmental functions. The authority is established to
24 provide for the conservation of the air, land, and water
25 resources of the state by preventing or reducing the pollution
26 of the resources and proper methods of disposal of solid
27 waste; to provide for the development of the energy resources
28 of the state; to further programs the authority is authorized
29 to acquire and construct; and to finance projects and issue
30 bonds and notes as provided in this chapter to pay the costs
31 of the projects. Projects shall be developed to attain
32 compliance with applicable federal and state standards and
33 regulations.

34 2. The powers of the authority are vested in and exercised
35 by a five-member board. Members shall be appointed by the

1 governor, subject to confirmation of the senate. No more than
2 three members shall belong to the same political party. All
3 members shall be residents of the state. The term of each
4 member shall begin and end as provided in section 69.19. A
5 vacancy shall be filled as provided in section 2.32. The
6 members shall serve terms of three years. A person appointed
7 to fill a vacancy shall serve only for the unexpired portion
8 of the term. A member is eligible for reappointment. A
9 member of the authority may be removed from office by the
10 governor for misfeasance, malfeasance, willful neglect of
11 duty, or other just cause but only after notice and hearing,
12 unless the notice and hearing is expressly waived in writing.

13 3. Three members are a quorum and the affirmative vote of
14 three members is necessary for substantive action to be taken
15 by the authority. A required majority shall not include a
16 member who has a conflict of interest and a statement by a
17 member of a conflict of interest is conclusive for this
18 purpose. A vacancy in the membership does not impair the
19 right of a quorum to exercise all rights and perform all
20 duties of the authority.

21 4. The members are entitled to receive forty dollars per
22 diem for each day spent in performance of duties as members,
23 and shall be reimbursed for all actual and necessary expenses
24 incurred in the performance of duties as members.

25 5. The members of the authority and the executive director
26 shall give bond as required for public officers in chapter 64.

27 6. Meetings of the authority shall be held at the call of
28 the chairperson or when two members so request.

29 7. The members shall elect a chairperson and vice
30 chairperson annually, and other officers as they determine,
31 but the executive director, appointed pursuant to section
32 455E.4, is a nonvoting ex officio member of the board and
33 shall serve as secretary to the authority.

34 8. The net earnings of the authority, beyond those
35 necessary for retirement of its notes, bonds, or other

1 obligations, or to implement the authorized public purposes
2 and programs, shall not inure to the benefit of any person
3 other than the state. Upon termination of the existence of
4 the authority, title to all property owned by the authority,
5 including any such net earnings of the authority, vests in the
6 state.

7 Sec. 4. NEW SECTION. 455E.4 EXECUTIVE DIRECTOR -- STAFF.

8 1. The governor shall appoint, subject to confirmation by
9 the senate, an executive director of the authority, to serve a
10 four-year term at the pleasure of the governor. The term
11 begins and ends as provided in section 69.19. The executive
12 director shall be selected primarily for administrative
13 ability and knowledge in the field, without regard to
14 political affiliation. The executive director shall not,
15 directly or indirectly, exert influence to induce other
16 officers or employees of the state to adopt a political view,
17 or to favor a political candidate for office.

18 2. The executive director is a nonvoting ex officio member
19 of the board, and shall advise the authority on matters
20 relating to finance, carry out all directives from the
21 authority, and hire and supervise the authority's staff
22 pursuant to its directions and under chapter 19A, except that
23 principal administrative assistants with responsibilities in
24 loan programs, accounting, and processing of applications for
25 loans are exempt from that chapter.

26 3. The executive director, as secretary of the authority,
27 is custodian of all books, documents, and papers filed with
28 the authority and of its minute book and seal. The executive
29 director may cause copies to be made of all minutes and other
30 records and documents of the authority and give certificates
31 under the seal of the authority to the effect that the copies
32 are true copies and all persons dealing with the authority may
33 rely upon the certificates.

34 Sec. 5. NEW SECTION. 455E.5 POWERS.

35 The authority has all of the general powers needed to carry

1 out its purposes and duties, and to exercise its specific
2 powers, including but not limited to the power to:

- 3 1. Sue and be sued in its own name.
- 4 2. Have and alter a corporate seal.
- 5 3. Make and alter bylaws for its management consistent
6 with this chapter.
- 7 4. Make and execute agreements, contracts, and other
8 instruments, with any public or private entity, including but
9 not limited to any federal governmental agency or
10 instrumentality. The authority may make and execute contracts
11 with a firm of independent certified public accountants to
12 prepare an annual report on behalf of the authority. All
13 political subdivisions, other public agencies, and state
14 agencies may enter into contracts and otherwise cooperate with
15 the authority.
- 16 5. Procure insurance against any loss in connection with
17 its operations.
- 18 6. Accept appropriations, gifts, grants, loans, or other
19 aid from public or private entities. A record of all gifts or
20 grants, stating the type, amount, and donor, shall be clearly
21 set out in the authority's annual report along with the record
22 of other receipts.
- 23 7. Provide to public and private entities technical
24 assistance and counseling related to the authority's purposes.
- 25 8. Contract with attorneys, accountants, finance experts,
26 and other advisors or enter into contracts or agreements for
27 these services with local, state, or federal governmental
28 agencies.
- 29 9. Issue its negotiable bonds, notes, debentures, capital
30 stock, or other obligations as provided in this chapter in
31 order to directly or indirectly finance its programs.
- 32 10. Fix and collect fees and charges for its services.
- 33 11. Subject to agreements with holders of its obligations,
34 invest or deposit moneys of the authority in a manner
35 determined by the authority by rule, notwithstanding chapter

1 452 or 453.

2 12. Make, alter, and repeal rules consistent with this
3 chapter and subject to chapter 17A.

4 13. Acquire, construct, reconstruct, enlarge, improve,
5 furnish, equip, maintain, repair, operate, lease, finance, and
6 sell projects and lease projects to any private person or to
7 any public body. A lease may provide for the construction of
8 the project by the lessee.

9 14. Engage in research and development with respect to
10 pollution control facilities and solid waste disposal
11 facilities and the development of energy resources.

12 15. Sell at private sale any of its property or projects
13 to any person on terms it deems advisable, including the right
14 to receive for the sale notes of the person to whom the sale
15 is made. The sale shall provide for payments adequate to pay
16 the principal of and interest and premiums, if any, on the
17 bonds or notes issued to finance the project or a portion of
18 the project. The sale may provide for the construction of the
19 project by the purchaser of the project.

20 16. Make, purchase, or participate in the purchase of
21 loans to finance the development and marketing of any of the
22 following:

23 a. Means of energy production utilizing energy sources
24 other than fossil or nuclear fuel including, but not limited
25 to, wind, water, solar, biomass, solid waste, and other
26 renewable energy resource technologies.

27 b. Fossil fuels and recycled fossil fuels which are
28 indigenous energy resources produced in the state including
29 coal, heavy oil, and tar sands.

30 c. Synthetic fuels produced in the state.

31 d. Facilities to prevent or abate pollution.

32 17. Make temporary loans, with or without interest, but
33 with such security for repayment as the authority deems
34 reasonably necessary and practical to defray development costs
35 of energy resource development projects.

1 18. Borrow money to carry out and effectuate its purpose
2 in the area of energy resource development and to issue its
3 negotiable bonds or notes as evidence of the borrowing in
4 principal amounts and upon terms as shall be determined by the
5 authority, and to secure the bonds or notes by the pledge of
6 revenues, mortgages, or notes of others as authorized by this
7 chapter.

8 Sec. 6. NEW SECTION. 455E.6 ANNUAL REPORT.

9 The authority shall submit to the governor and to the
10 members of the general assembly who request it, not later than
11 January 15 of each year, a complete and economically designed
12 and reproduced report setting forth:

13 1. Its operations and accomplishments.

14 2. Its receipts and expenditures during the fiscal year,
15 in accordance with the classifications it establishes for its
16 operating and capital accounts.

17 3. Its assets and liabilities at the end of its fiscal
18 year and the status of reserve, special, and other funds.

19 4. A statement of its proposed and projected activities.

20 5. Recommendations to the general assembly, as it deems
21 necessary.

22 6. An analysis of the need for environmental protection
23 and energy projects.

24 7. A schedule of its obligations outstanding at the end of
25 its fiscal year, together with a statement of the amounts
26 redeemed and issued during its fiscal year.

27 Sec. 7. NEW SECTION. 455E.7 OBLIGATIONS ISSUED BY THE
28 AUTHORITY.

29 1. The authority may issue its negotiable obligations in
30 principal amounts as, in the opinion of the authority, are
31 necessary to provide sufficient funds for achievement of its
32 corporate purposes, the payment of interest on its
33 obligations, the establishment of reserves to secure its
34 obligations, and all other expenditures of the authority
35 incident to and necessary or convenient to carry out its

1 purposes and powers. The obligations shall be deemed to be
2 investment securities and negotiable instruments within the
3 meaning of and for all purposes of chapter 554, the uniform
4 commercial code.

5 2. Obligations issued by the authority are payable solely
6 and only out of the moneys, assets, or revenues of the
7 authority, and as provided in agreements with holders of its
8 obligations pledging any particular moneys, assets, or
9 revenues. Taxes or appropriations shall not be pledged for
10 the payment of the obligations. Obligations are not an
11 obligation of this state or any political subdivision of this
12 state other than the authority within the meaning of any
13 constitutional or statutory debt limitations, but are special
14 obligations of the authority payable solely and only from the
15 sources provided in this chapter, and the authority shall not
16 pledge the general credit or taxing power of this state or any
17 political subdivision of this state other than the authority,
18 or make its debts payable out of any moneys except those of
19 the authority.

20 3. Obligations must be authorized by a resolution of the
21 authority. However, a resolution authorizing the issuance of
22 obligations may delegate to an officer of the authority the
23 power to negotiate and fix the details of an issue of bonds or
24 notes by an appropriate certificate of the authorized officer.

25 4. Obligations shall:

26 a. State the date and series of the issue, be
27 consecutively numbered, and state on their face that they are
28 payable both as to principal and interest solely out of the
29 assets of the authority and do not constitute an indebtedness
30 of this state or any political subdivision of this state other
31 than the authority within the meaning of any constitutional or
32 statutory debt limit.

33 b. Be registered, issued in denominations as the authority
34 prescribes, fully negotiable instruments under the laws of
35 this state, signed on behalf of the authority with the manual

1 or facsimile signature of the chairperson or vice chairperson,
2 attested by the manual or facsimile signature of the
3 secretary, and have impressed or imprinted on them the seal of
4 the authority or a facsimile of it. Obligations shall be
5 payable as to interest at rates and at times as the authority
6 determines, be payable as to principal at times over a period
7 not to exceed thirty years from the date of issuance, at
8 places, and with reserved rights of prior redemption, as the
9 authority prescribes, and be sold at prices, at public or
10 private sale, and in a manner as the authority prescribes.
11 The authority may pay all expenses, premiums, and commissions
12 which it deems necessary or advantageous in connection with
13 the issuance and sale. Obligations may be issued under and
14 subject to terms, conditions, and covenants providing for the
15 payment of the principal, redemption premiums if any, and
16 interest, and other terms, conditions, covenants, and
17 protective provisions safeguarding payment, not inconsistent
18 with this chapter, as are found to be necessary by the
19 authority for the most advantageous sale. The terms may
20 include, but are not limited to, covenants with the holders of
21 the obligations as to:

22 (1) Pledging or creating a lien, to the extent provided by
23 the resolution, on moneys or property of the authority or
24 moneys held in trust or otherwise by others to secure the
25 payment of the obligations.

26 (2) Providing for the custody, collection, securing,
27 investment, and payment of any moneys of or due to the
28 authority.

29 (3) The setting aside of reserves or sinking funds and the
30 regulation or disposition of them.

31 (4) Limitations on the purpose to which the proceeds of
32 sale of an issue of obligations then or thereafter to be
33 issued may be applied.

34 (5) Limitations on the issuance of additional obligations
35 and on the refunding of outstanding or other obligations.

1 (6) The procedure by which the terms of a contract with
2 the holders of obligations may be amended or abrogated, the
3 amount of obligations the holders of which must consent to the
4 contract, and the manner in which consent may be given.

5 (7) The creation of special funds into which moneys of the
6 authority may be deposited.

7 (8) Vesting in a trustee properties, rights, powers, and
8 duties in trust as the authority determines, which may include
9 the rights, powers, and duties of the trustee appointed for
10 the holders of any issue of obligations pursuant to section
11 455E.8, in which event the provisions of that section
12 authorizing appointment of a trustee by the holders of
13 obligations shall not apply, or limiting or abrogating the
14 right of the holders of obligations to appoint a trustee under
15 that section, or limiting the rights, duties, and powers of
16 the trustee.

17 (9) Defining the acts or omissions which constitute a
18 default in the obligations and duties of the authority and
19 providing for the rights and remedies of the holders of
20 obligations in the event of a default: However, rights and
21 remedies shall be consistent with the laws of this state.

22 (10) Any other matters which affect the security and
23 protection of the obligations and the rights of the holders or
24 which the authority deems necessary and advisable in
25 furtherance of its purposes.

26 c. Include other information and be subject to other terms
27 and conditions as the authority deems necessary and provides
28 by rule.

29 5. The authority may issue its obligations for the purpose
30 of refunding any obligations of the authority then
31 outstanding, including the payment of any redemption premiums
32 on the obligations and any interest accrued or to accrue to
33 the date of redemption of the outstanding obligations. Until
34 the proceeds of obligations issued for the purpose of
35 refunding outstanding obligations are applied to the purchase

1 or retirement of outstanding obligations or the redemption of
2 outstanding obligations, the proceeds may be placed in escrow
3 and be invested and reinvested in accordance with this
4 chapter. The interest, income, and profits earned or realized
5 on an investment may also be applied to the payment of the
6 outstanding obligations to be refunded by purchase,
7 retirement, or redemption. After the terms of the escrow have
8 been fully satisfied and carried out, any balance of proceeds
9 and interest earned or realized on the investments may be
10 returned to the authority for use by it in any lawful manner.
11 All refunding obligations shall be issued and secured and
12 subject to this chapter in the same manner and to the same
13 extent as other obligations issued pursuant to this chapter.

14 6. The authority may issue negotiable obligation
15 anticipation notes and may renew them from time to time but
16 the maximum maturity of the notes, including renewals, shall
17 not exceed ten years from the date of issue of the original
18 notes. Notes are payable from any available moneys of the
19 authority not otherwise pledged, or from the proceeds of the
20 sale of obligations of the authority in anticipation of which
21 the notes were issued. Notes may be issued for any corporate
22 purpose of the authority. Notes shall be issued in the same
23 manner as other obligations, and the resolution authorizing
24 them may contain any provisions, conditions, or limitations,
25 not inconsistent with this subsection, which the obligation or
26 a resolution of the authority may contain. Notes may be sold
27 at public or private sale. In case of default on its notes or
28 violation of any obligations of the authority to the
29 noteholders, the noteholders have all the remedies provided in
30 this chapter for holders of its obligations. Notes are as
31 fully negotiable as other obligations of the authority.

32 7. A copy of each pledge agreement by or to the authority,
33 including without limitation each obligation resolution,
34 indenture of trust, or similar agreement, or any revisions or
35 supplements to it shall be filed with the secretary of state

1 and no further filing or other action under article 9 of the
2 uniform commercial code, or any other law of the state is
3 required to perfect the security interest in the collateral or
4 any additions to it or substitutions for it, and the lien and
5 trust so created is binding from and after the time made
6 against all parties having claims of any kind in tort,
7 contract, or otherwise against the pledgor.

8 8. Neither the members of the authority nor any person
9 executing its obligations are liable personally on the
10 obligations or are subject to any personal liability or
11 accountability by reason of the issuance of the authority's
12 obligations.

13 9. The authority may create and establish one or more
14 special funds, to be known as "reserve funds", and shall pay
15 into each reserve fund any proceeds of sale of obligations to
16 the extent provided in the resolutions of the authority
17 authorizing their issuance, and any other moneys which may be
18 available to the authority for the purpose of the fund from
19 any other sources. All moneys held in a reserve fund, except
20 as otherwise provided in this chapter, shall be used as
21 required solely for the payment of the principal of
22 obligations secured in whole or in part by the fund or of the
23 sinking fund payments with respect to the obligations, the
24 purchase or redemption of the obligations, the payment of
25 interest on the obligations, or the payments of any redemption
26 premium required to be paid when the obligations are redeemed
27 prior to maturity.

28 Sec. 8. NEW SECTION. 455E.8 REMEDIES OF HOLDERS OF
29 OBLIGATIONS.

30 1. If the authority defaults in the payment of principal
31 or interest on an issue of obligations after they become due,
32 whether at maturity or upon call for redemption, and the
33 default continues for a period of thirty days, or if the
34 authority fails or refuses to comply with this chapter, or
35 defaults in an agreement made with the holders of an issue of

1 obligations, the holders of twenty-five percent in aggregate
2 principal amount of obligations of the issue then outstanding
3 may appoint a trustee to represent the holders of the
4 obligations for the purposes provided in this section by
5 filing an instrument in the office of the clerk of the county
6 in which the principal office of the authority is located.
7 The instrument shall be proved or acknowledged in the same
8 manner as a deed to be recorded.

9 2. The authority or any trustee appointed under the
10 indenture under which the obligations are issued may, and upon
11 written request of the holders of twenty-five percent in
12 aggregate principal amount of the issue of obligations then
13 outstanding shall:

14 a. Enforce all rights of the holders of the obligations,
15 including the right to require the authority to carry out its
16 agreements with the holders and to perform its duties under
17 this chapter.

18 b. Bring suit upon the obligations.

19 c. By action require the authority to account as if it
20 were the trustee of an express trust for the holders.

21 d. By action enjoin any acts or things which are unlawful
22 or in violation of the rights of the holders.

23 e. Declare all the obligations due and payable and if all
24 defaults are made good then with the consent of the holders of
25 twenty-five percent of the aggregate principal amount of the
26 issue of obligations then outstanding, annul the declaration
27 and its consequences.

28 The holders of obligations, to the extent provided in the
29 resolution by which the obligations were issued or in their
30 agreement with the authority, may enforce any of the remedies
31 in paragraphs "a" to "e" or the remedies provided in those
32 agreements for and on their own behalf.

33 3. The trustee also has all powers necessary or
34 appropriate for the exercise of functions specifically set
35 forth or incident to the general representation of the holders

1 of obligations in the enforcement and protection of their
2 rights.

3 4. Before declaring the principal of obligations due and
4 payable, the trustee shall give thirty days' notice in writing
5 to the governor, to the authority, and to the attorney general
6 of the state.

7 5. The district court has jurisdiction of any action by
8 the trustee on behalf of the holders of obligations. The
9 venue of the action shall be in the county in which the
10 principal office of the authority is located.

11 Sec. 9. NEW SECTION. 455E.9 OBLIGATIONS AS LEGAL
12 INVESTMENTS.

13 Obligations of the authority are securities in which public
14 officers, state departments and agencies, political
15 subdivisions, insurance companies, and other persons carrying
16 on an insurance business, banks, trust companies, savings and
17 loan associations, savings banks, investment companies, and
18 other persons carrying on a banking business, administrators,
19 executors, guardians, conservators, trustees, and other
20 fiduciaries, and other persons authorized to invest in bonds
21 or other obligations of this state, may properly and legally
22 invest funds including capital in their control or belonging
23 to them. The obligations are also securities which may be
24 deposited with and may be received by public officers, state
25 departments and agencies, and political subdivisions, for any
26 purpose for which the deposit of bonds or other obligations of
27 this state is authorized.

28 Sec. 10. NEW SECTION. 455.10 NOTICE -- LIMITATION OF
29 ACTION.

30 The authority may publish a notice of its intention to
31 issue obligations in a newspaper published in and with general
32 circulation in the state. The notice shall include a
33 statement of the maximum amount of obligations proposed to be
34 issued, and in general, what funds or revenues will be pledged
35 to pay the obligations and interest on the obligations. An

1 action which questions the legality of obligations or the
2 power of the authority to issue the obligations or the
3 effectiveness of any proceedings adopted for the authorization
4 or issuance of the obligations shall not be brought after
5 sixty days from the date of publication of the notice.

6 Sec. 11. NEW SECTION. 455E.11 MONEYS OF THE AUTHORITY.

7 1. Moneys of the authority shall be paid to the authority
8 and shall be deposited in a bank or other financial
9 institution designated by the authority. The moneys shall be
10 withdrawn on the order of the person authorized by the
11 authority. Deposits shall be secured in the manner determined
12 by the authority. The auditor of state or the auditor's
13 legally authorized representatives may periodically examine
14 the accounts and books of the authority, including its
15 receipts, disbursements, contracts, leases, investments, and
16 other records and papers relating to its financial standing,
17 and the authority shall not be required to pay a fee for the
18 examination.

19 2. The authority shall submit to the governor, the auditor
20 of state, and the state comptroller, within thirty days of its
21 receipt, a copy of the report of every external examination of
22 the books and accounts of the authority other than copies of
23 the reports of examinations made by the auditor of state.

24 Sec. 12. NEW SECTION. 455E.12 LIMITATION OF LIABILITY.

25 Members of the authority and persons acting in its behalf,
26 while acting within the scope of their employment or agency,
27 are not subject to personal liability resulting from carrying
28 out the powers and duties given in this chapter.

29 Sec. 13. NEW SECTION. 455E.13 ASSISTANCE BY STATE
30 OFFICERS, AGENCIES AND DEPARTMENTS.

31 State officers and state departments and agencies may
32 render services to the authority within their respective
33 functions as requested by the authority.

34 Sec. 14. NEW SECTION. 455E.14 CONFLICTS OF INTEREST.

35 1. If a member or employee other than the executive

1 director of the authority has an interest, either direct or
2 indirect, in a contract to which the authority is or is to be
3 a party or in a lending institution participating in a
4 project, the interest of the member or employee shall be
5 disclosed to the authority in writing and shall be set forth
6 in the minutes of the authority. The member or employee
7 having the interest shall not participate in action by the
8 authority with respect to that contract or lending
9 institution.

10 2. This section does not limit the right of a member,
11 officer, or employee of the authority other than the executive
12 director to have an interest in a bank or other financial
13 institution in which the funds of the authority are deposited.

14 3. The executive director shall not have an interest in a
15 bank or other financial institution in which the funds of the
16 authority are deposited. The executive director shall not
17 receive, in addition to fixed salary or compensation, money or
18 anything valuable, either directly or indirectly, or through a
19 substantial interest in another corporation or business unit,
20 for negotiating, procuring, recommending, or aiding in a
21 payment made by the authority under this chapter, nor shall
22 the executive director be pecuniarily interested, either as
23 principal, coprincipal, agent, or beneficiary, either directly
24 or indirectly or through any substantial interest in another
25 corporation or business unit, in a payment made by the
26 authority under this chapter.

27 Sec. 15. NEW SECTION. 455E.15 EXEMPTION FROM COMPETITIVE
28 BID LAWS.

29 The authority and contracts made by it in carrying out its
30 public and essential governmental functions are exempt from
31 the laws of the state which provide for competitive bids in
32 connection with the contracts.

33 Sec. 16. NEW SECTION. 455E.16 PROJECTS SUBJECT TO
34 TAXATION.

35 Projects acquired, constructed, reconstructed, enlarged,

1 improved, furnished, equipped, maintained, repaired, operated,
2 leased, financed, or sold by the authority pursuant to this
3 chapter are subject to all real and tangible personal property
4 taxes and assessments of the state, or any governmental
5 subdivision of the state.

6 Sec. 17. NEW SECTION. 455E.17 TERMINATION OR
7 DISSOLUTION, PROPERTY TO PASS TO STATE.

8 Upon termination or dissolution of the authority, all
9 rights and properties of the authority shall pass to and be
10 vested in the state, subject to the rights of noteholders,
11 bondholders, and other creditors.

12 Sec. 18. NEW SECTION. 455E.18 PROPOSED EXPENDITURE OF
13 FEDERAL FUNDS.

14 On or before January 15 of each year, if the authority
15 desires to receive and expend moneys from the federal
16 government in the next fiscal year of the state, the authority
17 shall submit to the appropriations committees of the senate
18 and house of representatives and an itemization of all federal
19 funds to be received, including the federal source of the
20 funds and plans including the expenditure of the funds.

21 Sec. 19. NEW SECTION. 455E.19 LOANS FOR ENERGY RESOURCE
22 DEVELOPMENT.

23 1. A loan authorized under this chapter shall be made only
24 upon determination by the authority that loans are not
25 otherwise available, either wholly or in part, from private
26 lenders upon reasonably equivalent terms and conditions. A
27 commitment for a loan shall not be made unless all plans for
28 development have been completed and submitted to and found to
29 be satisfactory by the authority.

30 2. The authority shall charge a reasonable fee on all
31 loans not federally insured to insure such loans. The
32 proceeds of the fees shall be deposited in a separate fund of
33 the general fund to be known as the "energy resources insured
34 loan fund". Money in this fund shall not be transferred and
35 placed to the credit of general revenue. Moneys shall not be

1 withdrawn from the fund unless it is to be used for the
2 purchase of loan insurance or to pay for any losses on the
3 loans.

4 Sec. 20. NEW SECTION. 455E.20 INTEREST RATE ON LOANS.

5 1. The authority may from time to time set the interest
6 rates at which it shall make loans, keeping its interest rates
7 at the lowest level consistent with its cost of operation and
8 its responsibilities to the holders of its bonds, bond
9 anticipation notes, and other responsibilities.

10 2. The ratio of loan to project cost and the amortization
11 period of loans made by the authority shall be determined in
12 accordance with rules adopted by the authority.

13 Sec. 21. Notwithstanding section 455E.3, the governor
14 shall appoint initial members of the board for the authority
15 established under that section to staggered terms, one to end
16 the year following appointment, two to end two years following
17 appointment, and two to end three years following appointment.
18 The governor shall appoint initial members in the same manner
19 as vacancies are filled, subject to section 2.32.

20 EXPLANATION

21 This bill establishes a state environmental improvement and
22 energy resources authority. The authority would be empowered
23 to issue bonds to provide financing for or to develop projects
24 to abate or prevent pollution or that develop energy resources
25 in the state and may make, purchase, or participate in loans
26 for the development of projects. A five-member board is
27 created to set policy for the authority. An executive
28 director is to administer the authority.

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SENATE FILE _____
BY (PROPOSED COMMITTEE ON
ENERGY AND ENVIRONMENT
BILL BY THE HAZARDOUS
WASTE DISPOSAL SITE
STUDY COMMITTEE)

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

A BILL FOR

1 An Act requiring specific criteria for the acquisition,
2 selection, or approval of a site for a hazardous waste
3 treatment, disposal, or storage facility.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 455B.422, Code Supplement 1985, is
2 amended to read as follows:

3 455B.422 ACQUISITION AND LEASE OF SITES.

4 1. The commission shall adopt rules establishing criteria
5 for the identification of land areas or sites which are
6 suitable for the operation of a treatment, or disposal, or
7 storage facility. Upon request, the department shall assist
8 the executive council in locating suitable sites for the
9 location of a treatment, or disposal, or storage facility.
10 The commission may recommend to the executive council the
11 purchase or condemnation of land to be leased for the
12 operation of a treatment, or disposal, or storage facility.
13 The executive council may purchase or may condemn the land
14 subject to chapter 471. Consideration for a contract for
15 purchase of land shall not be in excess of funds appropriated
16 by the general assembly for that purpose. The executive
17 council upon recommendation of the commission may lease land
18 purchased under this section to any person including the state
19 or a state agency. This section authorizes the state to own
20 or operate a hazardous waste treatment, or disposal facility,
21 or storage facilities for the treatment, and disposal, or
22 storage of hazardous wastes. The terms of the lease shall
23 establish responsibility for long-term monitoring and
24 maintenance of the site. The lessee is subject to all
25 applicable requirements of this part including permit
26 requirements. The commission may require the lessee to post
27 bond conditioned upon performance of conditions of the lease
28 relating to long-term monitoring and maintenance. The
29 leasehold interest including improvements made to the property
30 shall be listed, assessed, and valued as any other real
31 property as provided by law.

32 2. The criteria established pursuant to subsection 1 for
33 the acquisition, selection, or approval of a hazardous waste
34 treatment, disposal, or storage facility shall include all of
35 the following:

1 a. That the decision-making process shall provide for all
2 of the following:

3 (1) Ample opportunities for effective public participation
4 and input, including funding to conduct the participation
5 process.

6 (2) Evaluation of economic, social, and environmental
7 impacts of the site selection or approval including the
8 necessity of buffer areas and the adequacy of roads, sewers,
9 and other necessary facilities or services.

10 (3) An examination of alternative sites and methods of
11 treatment, disposal, or storage, including cost comparisons.
12 The cost comparisons shall cover short and long-term costs
13 including, but not limited to, liability insurance,
14 postclosure maintenance, monitoring of ground and surface
15 waters, monitoring of air before and after closure, and the
16 potential loss of land or water resources due to con-
17 tamination.

18 (4) Participation and review by all governmental entities
19 at all levels to assure conformity with all adopted
20 comprehensive plans.

21 (5) Procedures to resolve intergovernmental conflicts.

22 b. That to the maximum extent feasible, the location of a
23 site shall be selected to pose the least amount of risk to the
24 public and to sensitive environmental areas. To the maximum
25 extent feasible a site should be located away from all of the
26 following areas:

27 (1) Areas subject to natural hazards including, but not
28 limited to, flooding, earthquakes, or subsidence.

29 (2) Sources of drinking water supply including, but not
30 limited to, reservoirs, lakes and rivers and their watersheds,
31 and aquifers and their recharge areas.

32 (3) Fragile land areas including, but not limited to,
33 wetlands and the shorelines of rivers, lakes, and streams.

34 (4) Areas with rare or valuable ecosystems or geologic
35 formations or significant wildlife habitat.

SENATE/HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
ENERGY AND ENVIRONMENT
BILL BY THE HAZARDOUS
WASTE DISPOSAL SITE
STUDY COMMITTEE)

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

A BILL FOR

1 An Act relating to the testing and sale or advertisement of water
2 sold in containers for public consumption, and providing for a
3 penalty.

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

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1 Section 1. Section 455B.173, Code Supplement 1985, is
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 10. Establish, modify, or repeal rules
4 relating to standards for testing for the presence of
5 chemicals in water sold in containers for human consumption.
6 This subsection does not apply to soft drinks or alcoholic
7 beverages.

8 Sec. 2. Section 714.16, subsection 2, Code Supplement
9 1985, is amended by adding the following new lettered para-
10 graph:

11 NEW LETTERED PARAGRAPH. h. It is an unlawful practice and
12 a public offense to advertise or sell water sold in containers
13 for human consumption unless the containers or packages
14 containing the containers clearly and conspicuously disclose
15 the source of the water, and identify the chemicals for which
16 the water has been tested and the amount or level of each
17 chemical found to be present in the water. This paragraph
18 does not apply to soft drinks or alcoholic beverages.

19 EXPLANATION

20 This bill provides for the department of water, air and
21 waste management to set standards for testing for the presence
22 of chemicals in water sold in containers for human consump-
23 tion. The bill makes it an unlawful practice to sell or
24 advertise for sale water sold in containers unless the source
25 of the water, chemicals for which the water was tested, and
26 the amount of chemicals found are disclosed on the container
27 or package containing the container. A violations a simple
28 misdemeanor pursuant to section 701.8.

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HOUSE/SENATE FILE _____
BY (PROPOSED INTERIM STUDY
COMMITTEE ON HAZARDOUS
WASTE DISPOSAL SITE BILL)

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

A BILL FOR

1 An Act relating to sanitary disposal projects.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 455B.304, Code Supplement 1985, is
2 amended by adding the following new unnumbered paragraph:
3 NEW UNNUMBERED PARAGRAPH. The commission shall adopt rules
4 prohibiting the disposal of uncontained liquid waste at a
5 sanitary disposal project.

6 Sec. 2. Section 455B.304, unnumbered paragraph 1, Code
7 Supplement 1985, is amended to read as follows:

8 The commission shall establish rules for the proper
9 administration of this part 1 of division IV which shall
10 reflect and accommodate as far as is reasonably possible the
11 current and generally accepted methods and techniques for
12 treatment and disposition of solid waste which will serve the
13 purposes of this part 1-of-this-division, and which shall take
14 into consideration the factors, including others which it
15 deems proper, such as existing physical conditions,
16 topography, soils and geology, climate, transportation, and
17 land use, and which shall include but are not limited to rules
18 relating to the establishment and location of sanitary
19 disposal projects, sanitary practices, inspection of sanitary
20 disposal projects, collection of solid waste, disposal of
21 solid waste, pollution controls, the issuance of permits,
22 approved methods of private disposition of solid waste, the
23 general operation and maintenance of sanitary disposal
24 projects, and the implementation of this part 1-of-this
25 division. The rules shall require that each sanitary disposal
26 project has a sufficient number of water wells to adequately
27 monitor the quality of ground water adjacent to the sanitary
28 disposal project site and to require that the monitoring
29 continue for twenty years after the project's closure. Prior
30 to issuance of rules or amendments to rules, the commission
31 shall hold at least one public hearing on the proposed rules
32 or amendments, and shall give notice of the hearing at least
33 thirty days in advance by publishing notice in a newspaper of
34 general circulation in the state.

35 Sec. 3. The requirement of monitoring provided in section

1 2 of this Act applies to all sanitary disposal projects in
2 operation and those which have been in operation during the
3 twenty years prior to the effective date of this Act.

4 EXPLANATION

5 This bill prohibits the disposal of free liquids at
6 sanitary disposal projects and requires monitoring of
7 groundwater for twenty years after the project's closure. The
8 latter requirement is retroactive.

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SENATE/HOUSE FILE _____
BY (PROPOSED HAZARDOUS WASTE
STUDY COMMITTEE BILL)

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

A BILL FOR

1 An Act relating to state implementation of the federal Resource
2 Conservation and Recovery Act permit program for hazardous
3 waste facilities.

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

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1 Section 1. Acts of the Seventy-first General Assembly,
2 1985 Session, chapter 260, section 12, subsection 5, is
3 repealed.

4 Sec. 2. There is appropriated from the general fund of the
5 state to the department of water, air and waste management for
6 salaries, support, maintenance, and miscellaneous purposes for
7 the fiscal year beginning July 1, 1986 and ending June 30,
8 1987 the amount of _____ or so much thereof as
9 may be necessary.

10 Sec. 3. Sections 1 and 2 of this Act become effective upon
11 the date the federal environmental protection agency delegates
12 implementation of the federal Resource Conservation and
13 Recovery Act permit program for hazardous waste facilities to
14 the department of water, air and waste management.

15 EXPLANATION

16 This bill repeals the suspension of the state permit
17 program for hazardous waste facilities and finances imple-
18 mentation of the federal program if the federal government
19 agrees to state implementation.

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SENATE/HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
ENERGY AND ENVIRONMENT
AND COMMITTEE ON ENERGY
AND ENVIRONMENTAL PRO-
TECTION BILL BY THE
HAZARDOUS WASTE DISPOSAL
SITE STUDY COMMITTEE)

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

A BILL FOR

1 An Act relating to the authority of the department of water, air
2 and waste management over hazardous substances and hazardous
3 conditions.

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

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1 Section 1. NEW SECTION. 455B.396 PRIORITY CLAIM OF
2 STATE.

3 Liability to the state under this part or part 5 of this
4 division is a debt to the state. The debt, together with
5 interest on the debt at the maximum lawful rate of interest
6 permitted pursuant to section 535.2, subsection 3, paragraph
7 "a", from the date the debt becomes due, is a lien on all
8 property, and rights to property, real and personal, owned at
9 the time the statement of claim is filed or after acquired, of
10 the persons liable under this part or part 5, if a statement
11 of claim, describing the property subject to the lien and
12 signed by the executive director and approved by the
13 commission is filed within one hundred twenty days after the
14 incurrence of costs and expenses and submission of the report
15 required by section 455B.397 or section 455B.430, subsection
16 5. The statement shall be filed with, accepted by, and
17 recorded by the county recorder in any county in which
18 property subject to the lien is located and with the secretary
19 of state, and in accordance with section 321.50.

20 A lien filed pursuant to this part has priority over a
21 prior encumbrance, security interest, or levying creditor of
22 the owner of the property subject to the lien. The lien may
23 be dissolved by filing with the appropriate recording
24 officials a certificate signed by the executive director that
25 the debt for which the lien is attached, together with
26 interest and costs on the debt, has been paid or legally
27 abated. Notwithstanding the priority of the lien provided in
28 this section, if the proceeds of liquidation are sufficient to
29 satisfy the interest of a first mortgage or purchase money
30 security interest holder, this lien shall not defeat the
31 interest by more than fifty percent. The proceeds of
32 liquidation of property will be distributed in the following
33 order:

34 1. All proceeds up to an amount equal to the liability to
35 the state under this part or part 5, or equal to fifty percent

1 of the interest of the secured lienholder, whichever is less,
2 shall go to the state.

3 2. The excess remaining after application of subsection 1,
4 if any, up to fifty percent of the interest of the secured
5 lienholder, shall go to the lienholder.

6 3. The excess remaining after application of subsection 2,
7 if any, up to an amount necessary to satisfy the liability to
8 the state under this part or part 5, goes to the state.

9 4. The excess remaining after application of subsection 3,
10 if any, goes to satisfy the interest of the secured
11 lienholder.

12 5. The excess remaining after application of subsection 4,
13 if any, is distributed according to applicable law.

14 However, if the secured lienholder is the purchaser of the
15 property upon liquidation, the purchaser shall pay the lesser
16 of either an amount at least equal to the state's claim, or
17 fifty percent of the interest of the secured lienholder in
18 order to effect the purchase.

19 For purposes of this section, the interest of the secured
20 lienholder is that perfected prior to liability accruing under
21 this part or part 5, and valued at the time of the accrual,
22 less any subsequent payments on the secured lien. The
23 interest shall not be increased after liability accrues under
24 this part or part 5.

25 **Sec. 2. NEW SECTION. 455B.397 FINANCIAL DISCLOSURE.**

26 Immediately upon the incurrance of any liability to the
27 state under this part, the debtor shall submit to the
28 executive director a report consisting of documentation of the
29 debtor's liabilities and assets, including if filed, a copy of
30 the annual report submitted to the secretary of state pursuant
31 to chapter 496. A subsequent report pursuant to this section
32 shall be submitted annually on April 15 for the life of the
33 debt.

34 **Sec. 3. Section 455B.430, Code 1985, is amended by adding**
35 **the following new subsection:**

1 NEW SUBSECTION. 5. Immediately upon the listing of real
2 property in the registry of abandoned or uncontrolled disposal
3 sites, a person liable for cleanup costs shall submit to the
4 executive director a report consisting of documentation of the
5 responsible person's liabilities and assets, including if
6 filed, a copy of the annual report submitted to the secretary
7 of state pursuant to chapter 496. A subsequent report
8 pursuant to this section shall be submitted annually on April
9 15 for the period the site remains on the registry.

10 EXPLANATION

11 This bill provides that the state may perfect a lien
12 against any property of a person who is liable to the state
13 for cleanup of a hazardous condition or a hazardous waste
14 disposal site. The lien has limited priority over any other
15 encumbrance, security interest, or levying creditor. All
16 proceeds up to the lesser of either the amount of the
17 liability or fifty percent of the interest of the secured
18 lienholder goes to the state. A procedure is established for
19 distribution of any excess. A person who incurs liability is
20 required to file an annual report with the executive director
21 of the department of water, air and waste management stating
22 the person's assets and liabilities.

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SENATE/HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
ENERGY AND ENVIRONMENT
AND COMMITTEE ON ENERGY
AND ENVIRONMENTAL PRO-
TECTION BILL BY THE
HAZARDOUS WASTE DISPOSAL
SITE STUDY COMMITTEE)

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

A BILL FOR

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

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

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

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

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

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

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

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

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

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

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

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

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

7 455B.423 HAZARDOUS-WASTE REMEDIAL FUND.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 455B.428 INVESTIGATION OF SITES.

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

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

16 a. The address and site boundaries.

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

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

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

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

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

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

31 b. The nature of soils at the site.

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

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

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

1 the site.

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

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

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

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

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

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

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

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

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

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

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

8 455B.431 RECORDING OF SITE DESIGNATION.

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

22 EXPLANATION

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

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SENATE/HOUSE FILE _____
BY (PROPOSED HAZARDOUS WASTE
DISPOSAL SITE STUDY COM-
MITTEE BILL)

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

A BILL FOR

1 An Act providing for modifications of the authority of the
2 department of water, air and waste management over water
3 pollution, flood plain construction, and water use.

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

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1 Section 1. Section 455B.171, subsections 4 and 8, Code
2 Supplement 1985, are amended to read as follows:

3 4. "Water pollution" means the contamination or alteration
4 of the physical, chemical, biological, or radiological
5 integrity of any water of the state so-as-to-create-a-nuisance
6 or-render-such-water-unclean, noxious or impure so-as-to-be
7 actually by a point or nonpoint source resulting in whole or
8 in part from the activities of humans, which is harmful,
9 detrimental, or injurious to public health, safety, or
10 welfare, to domestic, commercial, industrial, agricultural, or
11 recreational use or to livestock, wild animals, birds, fish,
12 or other aquatic life.

13 8. "Federal Water Pollution Control Act" means the federal
14 Water Pollution Control Act of 1972, Pub. L. No. 92-500, as
15 published in 33 U.S.C. secs. §§ 1251-1376, as amended through
16 December 31, ~~1981~~ 1985.

17 Sec. 2. Section 455B.171, Code Supplement 1985, is amended
18 by adding the following new subsection:

19 NEW SUBSECTION. 13. "Nonpoint source" means a source of
20 pollutants that is not a point source.

21 Sec. 3. Section 455B.275, subsection 3, Code 1985, is
22 amended to read as follows:

23 3. If a person desires to erect or make or to permit a
24 structure, dam, obstruction, deposit, or excavation, other
25 than a dam constructed and operated under chapter 469, to be
26 erected, made, used, or maintained in or on any floodway or
27 flood plains, the person shall file a verified written
28 application with the department, setting forth information as
29 required by rule of the commission. The department, after an
30 investigation, shall approve or deny the application imposing
31 conditions and terms as prescribed by the department.

32 Sec. 4. Section 455B.279, subsection 1, Code 1985, is
33 amended to read as follows:

34 1. The commission executive director may issue any order
35 necessary to secure compliance with or prevent a violation of

1 this part or the rules adopted pursuant to this part. Within
2 thirty days of issuance, the order may be appealed to the
3 commission by filing a notice of appeal with the executive
4 director. The appeal shall be conducted as a contested case
5 pursuant to chapter 17A and the commission may affirm, modify,
6 or revoke the order. The department may request legal
7 services as required from the attorney general, including any
8 legal proceeding necessary to obtain compliance with this part
9 and rules and orders issued under this part.

10 EXPLANATION

11 This bill makes the definition of "water pollution" more
12 consistent with the federal law, modifies the definition of
13 federal "Water Pollution Control Act" to include current
14 amendments, and adds a definition for "nonpoint source". The
15 bill also removes the requirement that flood plain permit
16 applications be verified and provides that the executive
17 director rather than the commission may issue orders
18 pertaining to flood plain and water use matters, subject to
19 the right of appeal to the commission.

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1 PROPOSED SENATE (HOUSE) CONCURRENT RESOLUTION NO. _____

2 BY (PROPOSED INTERIM STUDY COMMITTEE ON HAZARDOUS
3 WASTE DISPOSAL SITE CONCURRENT RESOLUTION)

4 WHEREAS, the disposal of hazardous wastes is a
5 problem challenging many states; and

6 WHEREAS, hazardous wastes are diverse in their
7 nature and require different treatments for safe
8 recycling, reduction, and storage; and

9 WHEREAS, one state, by itself, may not generate
10 sufficient hazardous waste of a particular nature to
11 economically support a treatment facility for that
12 type of waste; and

13 WHEREAS, the ability to dispose of hazardous waste
14 is beneficial to the economy of the state; NOW

15 THEREFORE,

16 BE IT RESOLVED BY THE SENATE, THE HOUSE CONCURRING
17 (THE HOUSE OF REPRESENTATIVES, THE SENATE CONCURRING),

18 That the Iowa general assembly supports the
19 negotiation of agreements or arrangements with
20 surrounding and other states which provide for the
21 establishment of separate, specialized treatment
22 centers for various kinds of hazardous waste which
23 would be open to those states.

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