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House File 480

By COMMITTEE ON PUBLIC
HEALTH AND WELFARE

Passed House, Date 4-19-67 Passed Senate, Date _____
Vote: Ayes 105 Nays 9 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

An Act providing for the preservation and improvement of the air quality of the state; creating and delegating authority for an air pollution control program and related activities to an air pollution control commission; authorizing political subdivisions to conduct certain air pollution control activities, and making an appropriation therefor.

WHEREAS, it is hereby declared to be the public policy of this state to achieve and maintain reasonable levels of air quality, and to prevent the discharge of air contaminants into the outside atmosphere which will cause air pollution and create a public nuisance; and

WHEREAS, it is the intent and purpose of this Act to maintain purity of the air resources of the state consistent with the protection of the normal health and physical property of the state, maximum employment, and the full industrial development of the state; and

WHEREAS, it also is the purpose of this Act to provide for a coordinated statewide program of air pollution prevention, abatement and control, for an appropriate distribution of responsibilities among the state and political subdivisions, for the procedures for cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions, and for a framework within which all values may be balanced for the public interest; now, therefore,

Be It Enacted by the General Assembly of the State of Iowa:

- 1 Section 1. This Act shall be known as the "Iowa Air Pollution
- 2 Control Act".
- 1 Sec. 2. When used in this Act, unless the context otherwise
- 2 requires:
- 3 1. "Air contaminant" means dust, fume, mist, smoke, other
- 4 particulate matter, gas, vapor, odorous substance, or any

5 combination thereof.

6 2. "Air contaminant source" means any and all sources of
7 emission of air contaminants whether privately or publicly
8 owned or operated.

9 a. Air contaminant source includes, but is not limited
10 to, all types of businesses, commercial and industrial plants,
11 works, shops, and stores, heating and power plants and sta-
12 tions, buildings and other structures of all types including
13 single and multiple family residences, office buildings,
14 hotels, restaurants, schools, hospitals, churches and other
15 institutional buildings, automobiles, trucks, tractors,
16 buses, aircraft, and other motor vehicles, garages, vending
17 and service locations and stations, railroad locomotives,
18 ships, boats, and other water-borne craft, portable fuel-
19 burning equipment, indoor and outdoor incinerators of all
20 types, refuse dumps and piles, and all stack and other
21 chimney outlets from any of the foregoing.

22 3. "Air pollution" means presence in the outdoor atmosphere
23 of one (1) or more air contaminants in sufficient quantities
24 and of such characteristics and duration as is or tends to
25 be injurious to normal human, plant, or animal life, or to
26 property, or which unreasonably interferes with the enjoyment
27 of life and property.

28 4. "Atmosphere" means all space outside of buildings,
29 stacks or exterior ducts.

30 5. "Commissioner" means the commissioner of public health.

31 6. "Commission" means the air pollution control commission
32 created by this Act.

33 7. "Department" means the state department of health.

34 8. "Emission" means a release of one (1) or more air con-
35 taminants into outside atmosphere.

36 9. "Technical secretary" means the technical secretary of
37 the commission.

38 10. "Person" means an individual, partnership, copartner-
39 ship, firm, company, public or private corporation, political

40 subdivision, agency of the state, trust, estate, joint stock
41 company, or any other legal entity, or their legal representa-
42 tive, agent or assigns.

43 11. "Political subdivision" means any municipality, town-
44 ship, or county, or district, or authority, or any portion,
45 or combination of two (2) or more thereof.

1 Sec. 3. There is hereby created and established the Iowa
2 air pollution control commission. The commission is established
3 as an agency of the state government to perform the functions
4 specified for it in this Act.

5 1. The commission shall consist of the commissioner of
6 public health and eight (8) additional members having compe-
7 tence appropriate to service in the field of air pollution, to
8 be appointed by the governor. One (1) member shall be a
9 registered professional engineer as defined in section one
10 hundred fourteen point two (114.2) of the Code. One (1) member
11 shall be a physician licensed in compliance with section one
12 hundred forty-eight point three (148.3) of the Code who shall
13 be experienced in the field of industrial medicine. One (1)
14 member shall be actively engaged in the management of a private
15 manufacturing concern. One (1) member shall be selected from
16 individuals representative of a field directly related to the
17 conservation of natural resources or agriculture. One (1)
18 member shall be representative of labor. One (1) member shall
19 be engaged in or be a representative of a political subdivision
20 government or urban or regional planning commission. Two (2)
21 members shall be selected at large.

22 2. Members appointed to the commission shall serve for
23 terms of four (4) years, except when appointed to fill an
24 unexpired term, and until appointment of their successors, ex-
25 cept that the terms of those first appointed shall be as desig-
26 nated by the governor at the time of appointment as follows:

27 a. Four (4) members shall serve from the date of appointment
28 until June 30, 1969. Four (4) members shall serve from the
29 date of appointment until June 30, 1971.

30 b. If a vacancy occurs in the appointed membership, the
31 governor shall appoint a member for the remaining portion
32 of the unexpired term created by the vacancy. The governor
33 may remove any appointed member for cause.

34 3. The members of the commission shall receive no compensa-
35 tion for their services, but shall be reimbursed for travel and
36 other expenses necessarily incurred in the performance of their
37 duties.

38 4. The commission shall hold at least four (4) regular
39 meetings each calendar year at a place and time to be fixed by
40 the commission. Special meetings may be called by the chairman
41 or by four (4) members of the commission upon delivery of
42 written notice to the office of each member of the commission.
43 Any five members present at any regular or special meeting shall
44 constitute a quorum.

45 5. Except as otherwise specified in this Act, at least a
46 quorum must be present at any meeting to validate any action
47 taken by the commission at such meeting, and a majority of
48 members present shall determine issues.

49 6. The commission shall select at its first meeting one (1)
50 of its members to serve as chairman, and another of its members
51 to serve as vice-chairman. At the first regular meeting in
52 each calendar year thereafter, a chairman and a vice-chairman
53 for the ensuing year shall be elected. The department shall
54 furnish the services of a technical secretary to the commission.
55 The technical secretary shall receive no additional compensation
56 for such services.

1 Sec. 4. The commission is hereby given and charged with
2 the following powers and duties:

3 1. The commission, through the department, shall have gen-
4 eral supervision over administration and enforcement of all
5 laws relating to air pollution.

6 2. To develop and prepare a comprehensive plan or plans
7 for the abatement, control, and prevention of air pollution in
8 this state, recognizing varying requirements for different areas

9 in the state.

10 3. To adopt, amend and promulgate rules and regulations per-
11 taining to the evaluation, abatement, control, and prevention
12 of air pollution consistent with the intent and purpose of
13 this Act.

14 4. To establish, repeal, or modify air quality standards for
15 the atmosphere of this state as a whole or any part thereof on
16 the basis of providing air quality necessary to minimize air
17 pollution consistent with the purposes of this Act.

18 5. To establish, repeal, or modify emission standards re-
19 lating to the maximum quantities of air contamination that may
20 be emitted from any air contaminant source; and requirements
21 for open burning, including the prohibition thereof, for this
22 state as a whole.

23 6. To consider complaints of conditions reported to, or con-
24 sidered likely to, constitute air pollution; and instruct the
25 department to conduct investigations of such complaints upon
26 receipt of the written petition of any state agency, the
27 governing body of any political subdivision, a local board of
28 health, or twenty-five (25) affected residents of the state.

29 7. To hold such hearings as it may deem advisable and neces-
30 sary to accomplish the purposes of this Act, and in connection
31 therewith is authorized to issue subpoenas requiring the atten-
32 dance of witnesses and the production of evidence pertinent
33 to such hearings. All hearings shall be held before at least
34 a quorum of the commission.

35 a. If any person refuses to obey a subpoena issued under
36 this Act, the district court of the county where the proceeding
37 is pending shall have jurisdiction, upon application of the
38 commission, or its authorized representative, or the technical
39 secretary, to issue to such person an order requiring him to
40 appear and testify or produce evidence, and any failure to
41 obey such order of the court may be punished by said court as
42 a contempt thereof.

43 8. To issue or enter such order or determination as may

44 be necessary to effectuate this Act. If a condition of air
45 pollution, as defined herein, is found to exist, such order
46 may require the taking of such action as is indicated by the
47 circumstances to cause the abatement or control of such condi-
48 tion.

49 a. In making orders and determinations, the commission
50 shall take into consideration all the facts and circumstances
51 bearing upon the reasonableness of the emissions involved,
52 including, but not limited to: the character and degree of
53 injury to, or interference with, the protection of the health
54 and the physical property of the public; the practicability
55 of reducing or limiting the emissions from such air pollution
56 source; and the suitability or unsuitability of the air pollu-
57 tion sources to the area in which located.

58 b. Any such order or determination may include such ad-
59 visory recommendation as is deemed appropriate for the control
60 of emissions from any air contaminant source and the reduction
61 of the emission of air contaminants.

62 9. Cause to be instituted, in the name of the state, in a
63 court of competent jurisdiction, legal proceedings to compel
64 compliance with any order or determination entered by the
65 commission.

66 10. To classify air contaminant sources according to levels
67 and types of emissions, and other characteristics which relate
68 to air pollution, and may require, by rule and regulation, re-
69 porting for any such class or classes of information including
70 location, size, and height of contaminant outlets, processes
71 employed, fuels used, the nature and the time periods of
72 emissions, and such other information as is relevant to air
73 pollution.

74 a. Classifications made pursuant to this paragraph may be
75 for application to the state as a whole, or to any designated
76 area of the state, and shall be made with special reference to
77 effects on health, economic, and social factors, and physical
78 effects on property.

79 11. To require, by rules and regulations promulgated here-
80 under, notice of the construction or the installation of any
81 equipment which may cause or contribute to air pollution as de-
82 fined herein; and the submission to the department of plans and
83 specifications, or such other information as is deemed neces-
84 sary, for installation of equipment from which air contaminants
85 may be emitted to the atmosphere and related control equipment
86 for review and approval or disapproval by the commission.

87 12. Review and evaluate local air pollution control pro-
88 grams conducted by political subdivisions of the state with
89 respect to whether such programs are not inconsistent with
90 the provisions and purposes of this Act, and any rules and
91 regulations promulgated thereunder.

92 13. Represent the state in any and all matters pertaining
93 to plans, procedures, negotiations, and agreements for inter-
94 state compacts relating to the control of air pollution.

95 14. Advise, consult, and cooperate with other agencies of
96 the state, political subdivisions, industries, other states,
97 interstate or interlocal agencies, the federal government, and
98 with affected groups in the control of air contamination sources
99 within the state.

100 15. Encourage voluntary cooperation by persons or other
101 affected groups in restoring and preserving a reasonable quality
102 of air within the state.

103 16. Encourage political subdivisions to handle air pollu-
104 tion problems within their respective jurisdictions to the
105 greatest extent possible.

106 17. Provide technical assistance to political subdivisions
107 requesting such aid for the furtherance of air pollution
108 control.

109 18. Collect and disseminate information, and conduct educa-
110 tional and training programs, relating to air pollution and
111 its abatement prevention, and control.

1 Sec. 5. The department shall:

2 1. Provide to the commission such facilities and services

3 as may be needed in conducting the activities specified
4 herein.

5 2. Publish and administer the rules, regulations, and
6 standards promulgated hereunder. The department shall
7 furnish a copy of such rules, regulations, or standards
8 adopted hereunder to any citizen upon request.

9 3. Provide such technical, scientific, and other ser-
10 vices as may be required for the purpose of effectuating
11 the provisions of this Act from funds appropriated and
12 available for the purposes of this Act.

13 4. Conduct such correspondence and related activities
14 in the interim between meetings of the commission, make or
15 arrange for such inspections and investigations, and
16 assemble or prepare such data and reports as the commis-
17 sion may request.

18 5. Conduct investigations of complaints received
19 directly or referred by the commission, or such other
20 investigations as are deemed necessary to effectuate
21 the provisions of this Act; and participate, on behalf of
22 the state, in hearings before the commission.

23 6. Enter at all reasonable times in and upon any private
24 or public property except private dwellings for the purpose
25 of investigating an actual or possible source of air pollution,
26 or of ascertaining the state of compliance with this Act or
27 rules and regulations promulgated hereunder.

28 a. No person shall refuse entry or access to any autho-
29 rized representative of the department who requests entry for
30 the purpose of an investigation, and who presents appropriate
31 credentials; nor shall any person obstruct, hamper, or inter-
32 fere with any such investigation.

33 b. If requested, the owner or operator of the premises
34 shall receive a report setting forth levels of emissions
35 and any other facts found which relate to compliance status.

36 7. Grant, modify, deny, or revoke permits, under the
37 direction of the commission, for the installation of new

38 equipment capable of emitting air contaminants to produce air
39 pollution as defined herein, and for related control equipment,
40 subject to pertinent rules and regulations promulgated here-
41 under. The department shall furnish necessary forms to be
42 executed in making application for such permits.

43 a. No equipment which may cause or contribute to air pollu-
44 tion as defined herein, or which is intended primarily to
45 prevent or to control the emission of air contaminants, shall
46 be installed, altered, or placed in use unless a permit has
47 been issued therefor.

48 b. Upon denial of such a permit, the person applying for
49 such permit shall be notified of such denial and informed of the
50 reason or reasons therefor, and such person shall be entitled
51 to a hearing before the commission in accordance with section
52 four (4), subsection seven (7) of this Act.

53 8. Determine by field studies and sampling the quality of
54 atmosphere and the degree of air pollution in this state and
55 the several parts hereof.

56 9. Conduct and encourage studies, investigations, and re-
57 search relating to air pollution and its causes, effects,
58 abatement, control, and prevention.

59 10. Accept, receive, and administer grants or other funds
60 or gifts from public or private agencies, including the
61 federal government, for the purpose of conducting any of the
62 functions of this Act.

63 11. Upon instruction by the commission, employ and compen-
64 sate, within appropriations available, and prescribe the duties
65 of such consultants and technical assistants on a full or
66 part-time basis as may be necessary to carry out the provisions
67 of this Act.

1 Sec. 6. The commission and the department may request and
2 receive assistance from any other agency, department, or educa-
3 tional institution of the state, or political subdivision
4 thereof, when it is deemed necessary or beneficial by the
5 commission or the department in effectuating the purposes of

6 of this Act. The department may reimburse such agencies for
7 special expense resulting from expenditures not normally a
8 part of the operating expenses of any such agency.

1 Sec. 7. Information received by the commission or the
2 department through filed reports, inspections, or as other-
3 wise authorized under this Act concerning trade secrets,
4 secret industrial processes, or other privileged communi-
5 cations shall not be disclosed or opened to public inspec-
6 tion, except as may be necessary in a proceeding concerning
7 a violation of the Act or of any rules and regulations
8 promulgated thereunder, or as otherwise authorized or
9 ordered by appropriate court action or proceedings. Nothing
10 herein shall be construed to prevent the use of such informa-
11 tion by the commission or the department in compiling or
12 publishing analyses or summaries relating to the general
13 condition of the atmosphere; provided that such analyses
14 or summaries do not identify, directly or indirectly, any
15 owner or operator or reveal any information otherwise con-
16 fidential under this section.

1 Sec. 8. Whenever the commission has evidence that a vio-
2 lation of any provision of this Act, or rule, regulation,
3 or standard promulgated hereunder has occurred, it may cause
4 written notice to be served upon the alleged violator or
5 violators by certified mail. The notice shall specify the
6 provision of this Act, rule, regulation, or standard alleged
7 to be violated, and the facts alleged to constitute a vio-
8 lation thereof, and may include an order that necessary
9 corrective action be taken within a reasonable time.

10 1. Any such order shall become final unless, no later
11 than thirty (30) days after the date the notice and order
12 are received, the person or persons named therein request a
13 hearing before the commission. In lieu of an order, the
14 commission may require that the alleged violator or violators
15 appear before the commission for a hearing at a time and
16 place specified in the notice and answer the charges. Such

17 hearings shall be held at such place as the commission shall
18 determine.

19 2. The alleged violator or violators may file a written
20 answer to a notice of violation or order and may appear in
21 person at such hearing or by representative, with or without
22 counsel, and may make oral argument, offer testimony, and
23 cross examine witnesses. The testimony taken at the hearing
24 shall be under oath and recorded, and copies of the transcript
25 shall be furnished to the alleged violator or violators upon
26 his request and at his expense.

27 3. If after a hearing held pursuant to subsection one (1)
28 of this section, the commission finds that a violation or vio-
29 lations have occurred, it shall affirm or modify its order
30 previously issued, or issue an appropriate order or orders for
31 the prevention, abatement, or control of the emissions or air
32 pollution involved. If after hearing on an order, the commis-
33 sion finds that no violation is occurring, it shall rescind
34 the order. Any order issued as part of a notice or after hear-
35 ing shall prescribe the date or dates by which violation or
36 violations shall cease and may prescribe time tables for nec-
37 essary action in preventing, abating, or controlling the
38 emissions or air pollution.

39 4. Nothing in this Act shall prevent the commission and the
40 department from making efforts to obtain voluntary compliance
41 through warning, conference, or any other appropriate means.

42 5. If the commission or its authorized representative has
43 evidence that any person is causing or contributing to air
44 pollution and that such pollution creates an emergency requir-
45 ing immediate action to protect the public health and safety,
46 or property, either may, without notice or hearing, issue an
47 emergency order reciting that an emergency exists and requir-
48 ing such person or persons to reduce or discontinue immedi-
49 ately the emission of air contaminants. Such order shall be effec-
50 tive immediately. Upon issuance of such order the commission
51 or its authorized representative shall fix a place and time,

52 not later than twenty-four (24) hours thereafter, for a hear-
53 ing to be held before the commission. Not more than twenty-
54 four (24) hours from the commencement of such hearing, the
55 commission shall affirm, modify, or set aside such order.

1 Sec. 9. An appeal may be taken by any aggrieved party from
2 any order issued or entered as provided in section eight (8)
3 to the district court of the county in which the alleged
4 offense was committed. Notice of appeal from an order shall
5 be served upon the commission or the technical secretary by
6 certified mail or by personal service. Failure to serve such
7 notice of appeal within thirty (30) days after receipt of the
8 order shall operate as a waiver of the right to appeal. An
9 order by the commission shall not be stayed by an appeal
10 except by order of the district court after hearing for good
11 cause shown by the aggrieved party. The hearing on appeal
12 shall be tried as a suit in equity. The court may receive
13 additional testimony and evidence and may affirm, modify, or
14 reverse the order of the commission.

1 Sec. 10. If measures to prevent or correct air pollution
2 which is in violation of any rule or regulation promulgated by
3 the commission are not taken in accordance with an order of
4 the commission, or if the commission or its authorized repre-
5 sentative has evidence that an emergency exists by reason of
6 air pollution, requiring immediate action to protect the public
7 health or property, the attorney general shall, upon receiving
8 a request from the commission or its authorized representative,
9 bring an action in the name of the state for an injunction to
10 prevent any further or continued violation of such rule or
11 regulation or such order. In an action for injunction brought
12 pursuant to this section, any finding of the commission shall
13 be prima facie evidence of the fact or facts found herein.

1 Sec. 11. Any person who owns or is in control of any plant,
2 building, structure, process, or equipment may apply for a
3 variance from rules, regulations, or standards governing the
4 quality, nature, duration, or extent of emissions by filing

5 an application with the technical secretary. The application
6 shall be accompanied by such information and data as the
7 commission may require.

8 1. The department shall promptly investigate such applica-
9 tion and make a recommendation to the commission as to the dis-
10 position thereof. The commission may grant such variance if
11 it finds that:

12 a. The emissions occurring or proposed to occur do not
13 endanger or tend to endanger human health or safety or property;
14 and

15 b. Compliance with the rules, regulations, or standards from
16 which variance is sought would produce serious hardship without
17 equal or greater benefits to the public.

18 2. A hearing shall be held if the commission in its dis-
19 cretion concludes that a hearing will be advisable. The person
20 applying for a variance may request a review hearing before
21 the commission if his application is denied.

22 3. In determining under what conditions and to what extent
23 a variance from this Act or rule or regulation hereunder may
24 be granted, the commission shall give due recognition to the
25 progress which the person requesting such variance shall have
26 made in eliminating or preventing air pollution. In such a
27 case, the commission shall consider the reasonableness of
28 granting a variance, conditioned upon such person effecting a
29 partial abatement of the particular air pollution over a period
30 of time which it shall consider reasonable under the circum-
31 stances, or the commission in conformity with the intent and
32 purpose of this Act to protect health and property, may pre-
33 scribe other and different requirements with which the person
34 who receives such variance shall comply.

35 4. Any variance granted shall be granted for such period
36 of time, not exceeding one (1) year, as shall be specified by
37 the commission at the time of the grant of such variance. Any
38 variance may be granted by the commission upon the condition
39 that the person who received it shall make such periodic reports

40 to the commission as the commission shall specify as to the
41 progress which such person shall have made toward compliance
42 with any rule or regulation as to which a variance has been
43 granted. Such variance may be extended from year to year by
44 affirmative action of the commission.

1 Sec. 12. Any political subdivision is hereby authorized,
2 in addition to any other power vested by law, to conduct an
3 air pollution control program within the boundaries of its
4 jurisdiction, and to conduct air pollution control programs
5 jointly with other political subdivisions of this state or of
6 other states; provided that every joint program shall be
7 established and administered in accordance with the provisions
8 of chapter twenty-eight E (28E) of the Code. In conducting
9 such programs, political subdivisions shall have the power and
10 the authority to adopt and enforce rules, regulations, or stan-
11 dards for the purpose of securing and maintaining adequate
12 air quality within the respective jurisdictions.

1 Sec. 13. When an air pollution control program conducted
2 by a political subdivision, or combination of two (2) or more
3 political subdivisions, is deemed upon review in accordance
4 with section four (4), subsection twelve (12), of this Act to
5 be consistent with the provisions of this Act or rules and
6 regulations promulgated thereunder, the commission shall
7 accept such program in lieu of administration of the regula-
8 tory provisions of this Act by the state within the jurisdic-
9 tion involved. Nothing contained herein shall be construed to
10 limit the power of the commission to take emergency action
11 under the provisions of section eight (8), subsection five
12 (5), of this Act.

13 1. In evaluating such a local air pollution control program,
14 consideration shall be given to whether such program provides
15 for the following:

16 a. Ordinances, rules, regulations, or standards establish-
17 ing requirements consistent with, or more strict than, those
18 imposed by this Act or rules, regulations, and standards

19 promulgated thereunder;

20 b. Enforcement of such requirements by appropriate adminis-
21 trative and judicial process; and

22 c. Administrative organization, staff, financial, and other
23 resources necessary to carry out its program effectively and
24 efficiently.

25 2. When a local air pollution control program has been
26 deemed to be consistent with the provisions of this Act, the
27 commission shall issue a certificate of acceptance to the
28 appropriate local agency.

29 a. Any political subdivision desiring a certificate of ac-
30 ceptance shall make application for such certificate to the
31 technical secretary on such forms as the commission may pre-
32 scribe.

33 b. The technical secretary shall investigate promptly such
34 application, and make a recommendation to the commission as to
35 the disposition thereof. Upon receiving an affirmative
36 recommendation from the technical secretary, the commission may
37 grant such certificate without a hearing. If the recommenda-
38 tion is against the granting of a certificate of acceptance, or
39 if the commission in its discretion concludes that a hearing is
40 advisable, the political subdivision shall be entitled to a
41 hearing as provided in section eight (8) of this Act on the
42 questions as to whether the local program is substantially con-
43 sistent with the provisions of this Act or rules and regulations
44 promulgated thereunder, and whether the local ordinance or regu-
45 lation is being enforced. The burden of proof thereof shall be
46 upon the political subdivision.

47 c. If the commission shall determine at any time that a
48 local program is being conducted by a political subdivision
49 holding a certificate of acceptance in a manner inconsistent
50 with the substantive provisions of this Act or rules and regu-
51 lations promulgated thereunder, the commission shall provide
52 to the political subdivision a notice reciting the deviations
53 from the standards and the corrective measures to be completed

54 within a reasonable period of time. If the commission finds,
55 after such period of time, that the political subdivision has
56 failed to take the specified corrective action, the commission
57 shall suspend the certificate of acceptance and shall admin-
58 ister the regulatory provisions of this Act in such political
59 subdivision until such standards are met. Upon receipt of
60 evidence that is deemed to show correction of the cause of
61 such suspension, the commission shall reinstate a suspended
62 certificate of acceptance, and the political subdivision shall
63 resume the regulatory functions involved upon receipt of
64 appropriate notice from the commission. In cases where the
65 certificate of acceptance is suspended, the political sub-
66 division shall be entitled to a hearing as specified in section
67 eight (8) of this Act.

68 d. Nothing in this Act shall be construed to supersede
69 the jurisdiction of any local air pollution control program
70 in operation on the effective date of this Act; provided that
71 within two (2) years from such date any such program shall
72 meet all requirements of this Act for a local air pollution
73 control program and an application for a certificate of
74 acceptance is submitted to the technical secretary.

1 Sec. 14. In the event the commission shall determine that
2 any final order or determination made by it is being violated,
3 the commission may cause to have instituted a civil action
4 in any court of competent jurisdiction for injunctive relief
5 to prevent any further violation of such final order or de-
6 termination or for the assessment of such penalty not to
7 exceed two hundred (200) dollars per day for each day such
8 violation continues as the court may deem proper, or both.
9 It shall be the duty of the attorney general to bring such
10 actions at the request of the commission in the name of the
11 people of the state of Iowa.

1 Sec. 15. Upon the failure of the technical secretary to
2 take action within sixty (60) days after an application for
3 installation permit or variance, or upon the failure of the

4 commission to enter a final order or determination within
5 sixty (60) days after the final argument in any hearing under
6 section eight (8) of this Act, the person seeking any of such
7 actions shall be entitled to treat for all purposes such failure
8 to act as a grant of the requested permit or variance, or of
9 a finding favorable to the respondent in any hearing under sec-
10 tion eight (8) of this Act, as the case may be.

1 Sec. 16. No fees shall be charged by the technical secre-
2 tary or the commission for the performance of any of their
3 respective functions under this Act.

1 Sec. 17. The powers, duties, and functions vested in the
2 commission under the provisions of this Act shall not be con-
3 strued to affect in any manner the powers, duties, and func-
4 tions vested in the department under any other provisions of
5 law.

1 Sec. 18. Section two hundred sixty-three point eight (263.8),
2 Code 1966, is hereby amended by adding the following:

3 "The laboratory also shall perform all laboratory examina-
4 tions and studies which may be requested by the state depart-
5 ment of health and the air pollution control commission. The
6 laboratory is authorized to perform such laboratory determina-
7 tions relating to air contaminants as may be requested by
8 political subdivisions or other persons, and the laboratory
9 also is hereby authorized to charge political subdivisions or
10 other persons fees covering transportation of samples and the
11 actual costs of examinations performed upon their request."

1 Sec. 19. There is hereby appropriated to the department from
2 the general fund of the state the sum of forty-seven thousand
3 five hundred (47,500) dollars for each year of the ensuing
4 biennium for the purposes specified in this Act.

1 Sec. 20. There is hereby appropriated to the state bacter-
2 iological laboratory from the general fund of the state the sum
3 of forty-one thousand (41,000) dollars for each year of the
4 ensuing biennium for the purposes specified in this Act.

EXPLANATION

Air pollution is receiving nationwide attention. Although air pollution, at present, is not a serious problem in Iowa, the extent and scope of this problem must be expected to increase with urban and industrial development and population growth. Effort should therefore be made now to provide an instrument and program to preserve the quality of the air resources of this state.

This bill establishes an air pollution control commission as an agency of the state government, having regulatory power, and authority of general supervision over administration and enforcement of all laws relating to air pollution in this state, including the provisions of this bill. The commission shall serve without compensation.

Provision is made for the commission to operate through the state department of health which serves as the technical and functional staff of the commission.

Provision is also made for political subdivisions to conduct local air pollution control programs individually or jointly with other political subdivisions in this state and in other states.

The bill provides an initial appropriation.

This bill also authorizes the state bacteriological laboratory to perform laboratory determinations and studies relating to contaminants that may be requested by the state department of health, the air pollution control council, political subdivisions, and other persons; authorizes the laboratory to charge political subdivisions and other persons fees covering the costs of the determinations so requested; and provides an initial appropriation to the laboratory for this type of service.

- 1 Amend House File 480 as follows:
- 2 1. Amend line 8 of the third paragraph in the preamble by
3 striking the words "now, therefore," and inserting in lieu
4 thereof the word "and,".
- 5 2. Insert an additional paragraph to the preamble as follows:
6 "WHEREAS, the commission hereby established shall seek
7 the accomplishment of these objectives through the prevention,
8 abatement, and control of air pollution by practicable and
9 reasonable methods; now, therefore,".
- 10 3. Amend Section 2, subsection one (1), by inserting in line
11 four (4) after the word "vapor" the parenthetical phrase
12 "(except water vapor)".
- 13 4. Amend Section 2, subsection three (3), by striking from
14 twenty-four (24) and twenty-five (25) the words "or tends to
15 be".
- 16 5. Amend Section 2, subsection ten (10), by inserting in line
17 thirty-nine (39) after the word "co-partnership" the word
18 "cooperative,".
- 19 6. Amend Section 3, subsection five (5), line forty-eight
20 (48), by stri-
21 king the period after the word "issues" and adding the follow-
22 ing:
23 "; provided, however, that any rule or regulation or amendment
24 or
25 repeal thereof shall not be deemed operative until it shall have
26 been approved in writing by at least five members of the com-
27 mission."
- 28 7. Amend Section 3, subsection six (6), by inserting in line
29 (55) after the word "shall" the words "be a technically quali-
30 fied
31 engineer and shall".
- 32 8. Amend Section 4, subsection three (3), line thirteen (13),
33 by
34 striking the period and adding: "after at least sixty (60) days
35 public
36 notice and public hearing."
- 37 9. Amend Section 4, subsection four (4), line seventeen (17),
38 by
39 striking the period after the word "Act" and adding: "after
40 at least sixty (60) days public notice and public hearings."
- 41 10. Amend Section 4, subsection five (5), by striking the
42 period
43 after the word "whole" in line twenty-two (22) and adding:
44 ", after at least sixty (60) days public notice and public
45 hearings."
- 46 11. Amend Section 4, subsection seven (7), line twenty-nine
47 (29),
48 by adding after the word "hearings" the words ", in addition
49 to those otherwise required by this Act,".
- 50 12. Amend Section 4, subsection ten (10), by striking from
51 lines
52 seventy (70) and seventy-one (71) the words "processes
53 employed,".
- 54 13. Amend Section 4, subsection eleven (11), line eighty-
55 five (85),
56 by placing a period after the word "equipment". Further amend

46 subsection eleven (11) by striking the words "equipment" and inserting "equipment" and adding "and the equipment shall be used for the purpose of the program established by this Act."

47 14. Further amend Section 4, subsection eleven (11), by adding the

48 following paragraphs:

49 "Such standards, rules, or regulations shall not specify
50 any particular method to be used to reduce undesirable levels
51 of emissions, nor type, design, or method of installation of
52 any equipment to be used to reduce said levels of emissions,
53 nor the type, design, or method of installation or type of
54 construction of any manufacturing processes or kinds of
55 equipment, nor specify the kind or composition of fuels per-
56 mitted to be sold, stored, or used.

57 "Nothing herein shall prevent the commission from giving
58 technical advise pertaining to the construction or installa-
59 tion of any equipment or any other recommendation.

60 "The order of determination of the commission may include
61 such advisory recommendation as the commission may deem
62 appropriate for the control of emissions from any air-
63 contaminant source and the reduction of the emission of
64 air contaminants."

65 15. Amend Section 5, subsection seven (7), line thirty-six
(36),

66 by striking the words ", or revoke" and adding in line thirty-
67 six (36) after the word "modify," the word "or".

68 16. Amend Section 5, subsection seven (7), paragraph a, line
forty-

69 six (46) by adding after the word "altered" the words "in such
70 a way that it significantly affects operational efficiency,";

71 also by striking in line forty-seven (47) the word "therefor."
72 and adding "for such equipment."

73 17. Amend Section 5, subsection seven (7), by adding a new
sub-

74 section as follows:

75 "7b. The condition of expected performance must be
76 reasonably detailed in the permit unless it is agreed between
77 the commission and the permit holder that a condition of
78 development and adjustment exists."

79 18. Amend Section 5, by relettering subsection 7b.

80 19. Amend Section 5, subsection eleven (11), line sixty-three
81 (63), by striking the words "upon instruction by the commission,"
82 and capitalizing the word "employ".

83 20. Amend by inserting a new section after Section 5 as fol-
low:

84 "Nothing contained in this Act shall be deemed to grant to
85 the commission or the department any authority or juris-
86 diction with respect to air pollution existing solely within
87 residences; or solely within commercial and industrial plants,
88 works, or shops under the jurisdiction of chapter ninety-one
89 (91) of the Code; or to affect the relations between employers
90 and employees with respect to, or arising out of, any condi-
91 tion of air pollution."

92 21. Amend Section 7, by striking from lines ten (10) and
eleven

- 93 (11) "the use of such information by"; also by striking from
- 94 line eleven (11) the word "in" and inserting the word "from".
- 95 22. Amend Section 8, subsection five (5), line forty-two (42),
- 96 by striking the words "or its authorized representative",
- 97 and adding after the word "commission" the words ", its
- 98 technical secretary, or the commissioner".
- 99 23. Amend Section 8, subsection five (5), line fifty-one
- (51), by
- 100 striking the comma after the word "time" and inserting "of
- 101 hearing, such hearing to be held before the commission".
- 102 24. Further amend Section 8, subsection five (5), lines
- fifty-two
- 103 (52) and fifty-three (53), by inserting a period after the
- 104 word "thereafter" and striking "for a hearing to be held be-
- fore
- 105 the commission."
- 106 25. Amend Section 9, line two (2) by striking "eight (8)"
- and insert'
- 107 ing "nine (9)".
- 108 26. Further amend Section 9, line twelve (12), by striking
- the
- 109 period after the word "equity" and inserting "and shall be de
- 110 novo."
- 111 27. Amend Section 10 by striking line eleven (11) the words
- "In
- 112 an action for injunction brought" and all of lines twelve (12)
- 113 and thirteen (13).
- 114 28. Amend by inserting a new section after Section 10 as
- follows:
- 115 "In all proceedings with respect to any alleged violation
- 116 of the provisions of this Act or any rule or regulation promul-
- 117 gated hereunder, the burden of proof shall be upon the
- 118 commission."
- 119 29. Amend Section 12, by numbering the existing paragraph as
- 120 Subsection 1; also by adding a new subsection as follows:
- 121 "2. If the board of supervisors in any county estab-
- 122 lishes an air-pollution program and has obtained a certifi-
- 123 cate of acceptance, the agency implementing the program shall
- 124 have jurisdiction over and may regulate air pollution within
- 125 the county including any incorporated areas therein unless
- 126 and until such incorporated areas shall obtain a certificate
- 127 of acceptance as a joint or separate agency."
- 128 30. Amend Section 13, line eleven (11) by striking the word
- 129 "eight (8)" and inserting the word "nine (9)".
- 130 31. Amend Section 13, subsection 2b, line forty-one (41), by
- 131 striking the word and figure "eight (8)" and inserting the
- 132 word and figure "nine (9)".
- 133 32. Amend Section 13, subsection 2c, line sixty-seven (67),
- by
- 134 striking the word and number "eight (8)" and inserting the
- 135 word and figure "nine (9)".
- 136 33. Amend Section 15, lines six (6) and ten (10) by striking
- 137 the word and figure "eight (8)" and inserting the word and
- 138 figure "nine (9)".
- 139 34. By renumbering all sections following Section 5.

Filed - adopted 4-19
 April 6, 1967

DEN HERDER of Sioux.
 PETERSEN of Dallas
 KNIGHT of Humboldt-Pocahontas.
 GALLAGHER of Black Hawk.

1 Amend the Den Herder et al amendment to House File 480,
2 filed April 6, as follows:

3 1. Amend the amendment to Section 10 (No. 27) by
4 striking the period in line one hundred thirteen (113)
5 and inserting in lieu thereof the following:
6 ", and by inserting in lieu thereof the following: In
7 an action for a temporary injunction brought pursuant to
8 this section, any previous findings of the commission, after
9 due notice and hearing, shall be prima facie evidence of the
10 fact or facts found therein."

11 2. Further amend the amendment (No. 28) which inserts a
12 new section after Section 10 by striking the period in line
13 one hundred eighteen (118) and inserting in lieu thereof
14 the following:

15 "except in an action for a temporary injunction as
16 provided for in Section 10 of this Act."

Filed - *Adopted 4-19*
April 18, 1967

GALLAGHER of Black Hawk.

1 Amend House File 480 as follows:

2 1. Sec. 19, lines two (2) and three (3), by striking
3 the words and figures "forty-seven thousand five hundred
4 (47,500)" and inserting in lieu thereof the following:
5 "thirty-seven thousand five hundred (37,500)".

6 2. Sec. 20, line three (3), by striking the words
7 and figures "forty-one thousand (41,000)" and inserting in
8 lieu thereof the following: "thirty-three thousand five
9 hundred (33,500)".

Filed - *Adopted 4-19*
April 12, 1967

COMMITTEE ON APPROPRIATIONS.

D -

House File 480

March 17, 1967
Placed on Calendar
appropriation, Pass 5-18

By COMMITTEE ON PUBLIC
HEALTH AND WELFARE
(As Amended and Passed by the House)

Passed House, Date 4-19-67 Passed Senate, Date 6-1-67

Vote: Ayes 105 Nays 9 Vote: Ayes 50 Nays 3

*Passed
House and
amended by
Senate 6-1
105-1*
Approved June 22, 1967

A BILL FOR

An Act providing for the preservation and improvement of the air quality of the state; creating and delegating authority for an air pollution control program and related activities to an air pollution control commission; authorizing political subdivisions to conduct certain air pollution control activities, and making an appropriation therefor.

WHEREAS, it is hereby declared to be the public policy of this state to achieve and maintain reasonable levels of air quality, and to prevent the discharge of air contaminants into the outside atmosphere which will cause air pollution and create a public nuisance; and

WHEREAS, it is the intent and purpose of this Act to maintain purity of the air resources of the state consistent with the protection of the normal health and physical property of the state, maximum employment, and the full industrial development of the state; and

WHEREAS, it also is the purpose of this Act to provide for a coordinated statewide program of air pollution prevention, abatement and control, for an appropriate distribution of responsibilities among the state and political subdivisions, for the procedures for cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions, and for a framework within which all values may be balanced for the public interest; and,

WHEREAS, the commission hereby established shall seek the accomplishment of these objectives through the prevention, abatement, and control of air pollution by practicable and reasonable methods; now, therefore,

Be It Enacted by the General Assembly of the State of Iowa:

- 1 Section 1. This Act shall be known as the "Iowa Air Pollution
- 2 Control Act".

1 Sec. 2. When used in this Act, unless the context otherwise
2 requires:

3 1. "Air contaminant" means dust, fume, mist, smoke, other
4 particulate matter, gas, vapor (except water vapor),
5 odorous substance, or any
6 combination thereof.

7 2. "Air contaminant source" means any and all sources of
8 emission of air contaminants whether privately or publicly
9 owned or operated.

10 a. Air contaminant source includes, but is not limited
11 to, all types of businesses, commercial and industrial plants,
12 works, shops, and stores, heating and power plants and sta-
13 tions, buildings and other structures of all types including
14 single and multiple family residences, office buildings,
15 hotels, restaurants, schools, hospitals, churches and other
16 institutional buildings, automobiles, trucks, tractors,
17 buses, aircraft, and other motor vehicles, garages, vending
18 and service locations and stations, railroad locomotives,
19 ships, boats, and other water-borne craft, portable fuel-
20 burning equipment, indoor and outdoor incinerators of all
21 types, refuse dumps and piles, and all stack and other
22 chimney outlets from any of the foregoing.

23 3. "Air pollution" means presence in the outdoor atmosphere
24 of one (1) or more air contaminants in sufficient quantities
25 and of such characteristics and duration as is
26 injurious to normal human, plant, or animal life, or to
27 property, or which unreasonably interferes with the enjoyment
28 of life and property.

29 4. "Atmosphere" means all space outside of buildings,
30 stacks or exterior ducts.

31 5. "Commissioner" means the commissioner of public health.

32 6. "Commission" means the air pollution control commission
33 created by this Act.

34 7. "Department" means the state department of health.

35 8. "Emission" means a release of one (1) or more air con-

36 taminants into outside atmosphere.

37 9. "Technical secretary" means the technical secretary of
38 the commission.

39 10. "Person" means an individual, partnership, copartner-
40 ship, cooperative,
41 firm, company, public or private corporation, political
42 subdivision, agency of the state, trust, estate, joint stock
43 company, or any other legal entity, or their legal representa-
44 tive, agent or assigns.

45 11. "Political subdivision" means any municipality, town-
46 ship, or county, or district, or authority, or any portion,
47 or combination of two (2) or more thereof.

1 Sec. 3. There is hereby created and established the Iowa
2 air pollution control commission. The commission is established
3 as an agency of the state government to perform the functions
4 specified for it in this Act.

5 1. The commission shall consist of the commissioner of
6 public health and eight (8) additional members having compe-
7 tence appropriate to service in the field of air pollution, to
8 be appointed by the governor. One (1) member shall be a
9 registered professional engineer as defined in section one
10 hundred fourteen point two (114.2) of the Code. One (1) member
11 shall be a physician licensed in compliance with section one
12 hundred forty-eight point three (148.3) of the Code who shall
13 be experienced in the field of industrial medicine. One (1)
14 member shall be actively engaged in the management of a private
15 manufacturing concern. One (1) member shall be selected from
16 individuals representative of a field directly related to the
17 conservation of natural resources or agriculture. One (1)
18 member shall be representative of labor. One (1) member shall
19 be engaged in or be a representative of a political subdivision
20 government or urban or regional planning commission. Two (2)
21 members shall be selected at large.

22 2. Members appointed to the commission shall serve for
23 terms of four (4) years, except when appointed to fill an

24 unexpired term, and until appointment of their successors, ex-
25 cept that the terms of those first appointed shall be as desig-
26 nated by the governor at the time of appointment as follows:

27 a. Four (4) members shall serve from the date of appointment
28 until June 30, 1969. Four (4) members shall serve from the
29 date of appointment until June 30, 1971.

30 b. If a vacancy occurs in the appointed membership, the
31 governor shall appoint a member for the remaining portion
32 of the unexpired term created by the vacancy. The governor
33 may remove any appointed member for cause.

34 3. The members of the commission shall receive no compensa-
35 tion for their services, but shall be reimbursed for travel and
36 other expenses necessarily incurred in the performance of their
37 duties.

38 4. The commission shall hold at least four (4) regular
39 meetings each calendar year at a place and time to be fixed by
40 the commission. Special meetings may be called by the chairman
41 or by four (4) members of the commission upon delivery of
42 written notice to the office of each member of the commission.
43 Any five members present at any regular or special meeting shall
44 constitute a quorum.

45 5. Except as otherwise specified in this Act, at least a
46 quorum must be present at any meeting to validate any action
47 taken by the commission at such meeting, and a majority of
48 members present shall determine issues; provided, however, that
49 any rule or regulation or amendment or repeal thereof shall
50 not be deemed operative until it shall have been approved
51 in writing by at least five members of the commission.

52 6. The commission shall select at its first meeting one (1)
53 of its members to serve as chairman, and another of its members
54 to serve as vice-chairman. At the first regular meeting in
55 each calendar year thereafter, a chairman and a vice-chairman
56 for the ensuing year shall be elected. The department shall
57 furnish the services of a technical secretary to the commission.
58 The technical secretary shall be a technically qualified

59 engineer and shall receive no additional compensation
60 for such services.

1 Sec. 4. The commission is hereby given and charged with
2 the following powers and duties:

3 1. The commission, through the department, shall have gen-
4 eral supervision over administration and enforcement of all
5 laws relating to air pollution.

6 2. To develop and prepare a comprehensive plan or plans
7 for the abatement, control, and prevention of air pollution in
8 this state, recognizing varying requirements for different areas
9 in the state.

10 3. To adopt, amend and promulgate rules and regulations per-
11 taining to the evaluation, abatement, control, and prevention
12 of air pollution consistent with the intent and purpose of
13 this Act after at least sixty (60) days public notice and
14 public hearings.

15 4. To establish, repeal, or modify air quality standards for
16 the atmosphere of this state as a whole or any part thereof on
17 the basis of providing air quality necessary to minimize air
18 pollution consistent with the purposes of this Act after
19 at least sixty (60) days public notice and public hearings.

20 5. To establish, repeal, or modify emission standards re-
21 lating to the maximum quantities of air contamination that may
22 be emitted from any air contaminant source; and requirements
23 for open burning, including the prohibition thereof, for this
24 state as a whole, after at least sixty (60) days public
25 notice and public hearings.

26 6. To consider complaints of conditions reported to, or con-
27 sidered likely to, constitute air pollution; and instruct the
28 department to conduct investigations of such complaints upon
29 receipt of the written petition of any state agency, the
30 governing body of any political subdivision, a local board of
31 health, or twenty-five (25) affected residents of the state.

32 7. To hold such hearings, in addition to those otherwise
33 required by this Act, as it may deem advisable and neces-

34 sary to accomplish the purposes of this Act, and in connection
35 therewith is authorized to issue subpoenas requiring the atten-
36 dance of witnesses and the production of evidence pertinent
37 to such hearings. All hearings shall be held before at least
38 a quorum of the commission.

39 a. If any person refuses to obey a subpoena issued under
40 this Act, the district court of the county where the proceeding
41 is pending shall have jurisdiction, upon application of the
42 commission, or its authorized representative, or the technical
43 secretary, to issue to such person an order requiring him to
44 appear and testify or produce evidence, and any failure to
45 obey such order of the court may be punished by said court as
46 a contempt thereof.

47 8. To issue or enter such order or determination as may
48 be necessary to effectuate this Act. If a condition of air
49 pollution, as defined herein, is found to exist, such order
50 may require the taking of such action as is indicated by the
51 circumstances to cause the abatement or control of such condi-
52 tion.

53 a. In making orders and determinations, the commission
54 shall take into consideration all the facts and circumstances
55 bearing upon the reasonableness of the emissions involved,
56 including, but not limited to: the character and degree of
57 injury to, or interference with, the protection of the health
58 and the physical property of the public; the practicability
59 of reducing or limiting the emissions from such air pollution
60 source; and the suitability or unsuitability of the air pollu-
61 tion sources to the area in which located.

62 b. Any such order or determination may include such ad-
63 visory recommendation as is deemed appropriate for the control
64 of emissions from any air contaminant source and the reduction
65 of the emission of air contaminants.

66 9. Cause to be instituted, in the name of the state, in a
67 court of competent jurisdiction, legal proceedings to compel
68 compliance with any order or determination entered by the

69 commission.

70 10. To classify air contaminant sources according to levels
71 and types of emissions, and other characteristics which relate
72 to air pollution, and may require, by rule and regulation, re-
73 porting for any such class or classes of information including
74 location, size, and height of contaminant outlets,
75 fuels used, the nature and the time periods of
76 emissions, and such other information as is relevant to air
77 pollution.

78 Classifications made pursuant to this paragraph may be
79 for application to the state as a whole, or to any designated
80 area of the state, and shall be made with special reference to
81 effects on health, economic, and social factors, and physical
82 effects on property.

83 11. To require, by rules and regulations promulgated here-
84 under, notice of the construction or the installation of any
85 equipment which may cause or contribute to air pollution as de-
86 fined herein; and the submission to the department of plans and
87 specifications, or such other information as is deemed neces-
88 sary, for installation of equipment from which air contaminants
89 may be emitted to the atmosphere and related control equipment.

90 Such standards, rules, or regulations shall not specify
91 any particular method to be used to reduce undesirable levels
92 of emissions, nor type, design, or method of installation of
93 any equipment to be used to reduce said levels of emissions,
94 nor the type, design, or method of installation or type of
95 construction of any manufacturing processes or kinds of
96 equipment, nor specify the kind or composition of fuels per-
97 mitted to be sold, stored, or used.

98 Nothing herein shall prevent the commission from giving
99 technical advice pertaining to the construction or
100 installation of any equipment or any other recommendation.

101 The order of determination of the commission may include
102 such advisory recommendation as the commission may deem
103 appropriate for the control of emissions from any air-

104 contaminant source and the reduction of the emission of
105 air contaminants.

106 12. Review and evaluate local air pollution control pro-
107 grams conducted by political subdivisions of the state with
108 respect to whether such programs are not inconsistent with
109 the provisions and purposes of this Act, and any rules and
110 regulations promulgated thereunder.

111 13. Represent the state in any and all matters pertaining
112 to plans, procedures, negotiations, and agreements for inter-
113 state compacts relating to the control of air pollution.

114 14. Advise, consult, and cooperate with other agencies of
115 the state, political subdivisions, industries, other states,
116 interstate or interlocal agencies, the federal government, and
117 with affected groups in the control of air contamination sources
118 within the state.

119 15. Encourage voluntary cooperation by persons or other
120 affected groups in restoring and preserving a reasonable quality
121 of air within the state.

122 16. Encourage political subdivisions to handle air pollu-
123 tion problems within their respective jurisdictions to the
124 greatest extent possible.

125 17. Provide technical assistance to political subdivisions
126 requesting such aid for the furtherance of air pollution
127 control.

128 18. Collect and disseminate information, and conduct educa-
129 tional and training programs, relating to air pollution and
130 its abatement prevention, and control.

1 Sec. 5. The department shall:

2 1. Provide to the commission such facilities and services
3 as may be needed in conducting the activities specified
4 herein.

5 2. Publish and administer the rules, regulations, and
6 standards promulgated hereunder. The department shall
7 furnish a copy of such rules, regulations, or standards
8 adopted hereunder to any citizen upon request.

9 3. Provide such technical, scientific, and other ser-
10 vices as may be required for the purpose of effectuating
11 the provisions of this Act from funds appropriated and
12 available for the purposes of this Act.

13 4. Conduct such correspondence and related activities
14 in the interim between meetings of the commission, make or
15 arrange for such inspections and investigations, and
16 assemble or prepare such data and reports as the commis-
17 sion may request.

18 5. Conduct investigations of complaints received
19 directly or referred by the commission, or such other
20 investigations as are deemed necessary to effectuate
21 the provisions of this Act; and participate, on behalf of
22 the state, in hearings before the commission.

23 6. Enter at all reasonable times in and upon any private
24 or public property except private dwellings for the purpose
25 of investigating an actual or possible source of air pollution,
26 or of ascertaining the state of compliance with this Act or
27 rules and regulations promulgated hereunder.

28 a. No person shall refuse entry or access to any autho-
29 rized representative of the department who requests entry for
30 the purpose of an investigation, and who presents appropriate
31 credentials; nor shall any person obstruct, hamper, or inter-
32 fere with any such investigation.

33 b. If requested, the owner or operator of the premises
34 shall receive a report setting forth levels of emissions
35 and any other facts found which relate to compliance status.

36 7. Grant, modify, or deny permits, under the
37 direction of the commission, for the installation of new
38 equipment capable of emitting air contaminants to produce air
39 pollution as defined herein, and for related control equipment,
40 subject to pertinent rules and regulations promulgated here-
41 under. The department shall furnish necessary forms to be
42 executed in making application for such permits.

43 a. No equipment which may cause or contribute to air pollu-

44 tion as defined herein, or which is intended primarily to
45 prevent or to control the emission of air contaminants, shall
46 be installed, altered in such a way that it significantly
47 affects operational efficiency, or placed in use unless a permit
48 has been issued for such equipment.

49 b. The condition of expected performance must be
50 reasonably detailed in the permit unless it is agreed
51 between the commission and the permit holder that a
52 condition of development and adjustment exists.

53 c. Upon denial of such a permit, the person applying for
54 such permit shall be notified of such denial and informed of the
55 reason or reasons therefor, and such person shall be entitled
56 to a hearing before the commission in accordance with section
57 four (4), subsection seven (7) of this Act.

58 8. Determine by field studies and sampling the quality of
59 atmosphere and the degree of air pollution in this state and
60 the several parts hereof.

61 9. Conduct and encourage studies, investigations, and re-
62 search relating to air pollution and its causes, effects,
63 abatement, control, and prevention.

64 10. Accept, receive, and administer grants or other funds
65 or gifts from public or private agencies, including the
66 federal government, for the purpose of conducting any of the
67 functions of this Act.

68 11. Employ and compen-
69 sate, within appropriations available, and prescribe the duties
70 of such consultants and technical assistants on a full or
71 part-time basis as may be necessary to carry out the provisions
72 of this Act.

1 Sec. 6. Nothing contained in this Act shall be deemed
2 to grant to the commission or the department any authority
3 or jurisdiction with respect to air pollution existing
4 solely within residences; or solely within commercial and
5 industrial plants, works, or shops under the jurisdiction

6 of chapter ninety-one (91) of the Code; or to affect the
7 relations between employers and employees with respect to,
8 or arising out of, any condition of air pollution.

1 Sec. 7. The commission and the department may request and
2 receive assistance from any other agency, department, or educa-
3 tional institution of the state, or political subdivision
4 thereof, when it is deemed necessary or beneficial by the
5 commission or the department in effectuating the purposes of
6 this Act. The department may reimburse such agencies for
7 special expense resulting from expenditures not normally a
8 part of the operating expenses of any such agency.

1 Sec. 8. Information received by the commission or the
2 department through filed reports, inspections, or as other-
3 wise authorized under this Act concerning trade secrets,
4 secret industrial processes, or other privileged communi-
5 cations shall not be disclosed or opened to public inspec-
6 tion, except as may be necessary in a proceeding concerning
7 a violation of the Act or of any rules and regulations
8 promulgated thereunder, or as otherwise authorized or
9 ordered by appropriate court action or proceedings. Nothing
10 herein shall be construed to prevent
11 the commission or the department from compiling or
12 publishing analyses or summaries relating to the general
13 condition of the atmosphere; provided that such analyses
14 or summaries do not identify, directly or indirectly, any
15 owner or operator or reveal any information otherwise con-
16 fidential under this section.

1 Sec. 9. Whenever the commission has evidence that a vio-
2 lation of any provision of this Act, or rule, regulation,
3 or standard promulgated hereunder has occurred, it may cause
4 written notice to be served upon the alleged violator or
5 violators by certified mail. The notice shall specify the
6 provision of this Act, rule, regulation, or standard alleged
7 to be violated, and the facts alleged to constitute a vio-
8 lation thereof, and may include an order that necessary

9 corrective action be taken within a reasonable time.

10 1. Any such order shall become final unless, no later
11 than thirty (30) days after the date the notice and order
12 are received, the person or persons named therein request a
13 hearing before the commission. In lieu of an order, the
14 commission may require that the alleged violator or violators
15 appear before the commission for a hearing at a time and
16 place specified in the notice and answer the charges. Such
17 hearings shall be held at such place as the commission shall
18 determine.

19 2. The alleged violator or violators may file a written
20 answer to a notice of violation or order and may appear in
21 person at such hearing or by representative, with or without
22 counsel, and may make oral argument, offer testimony, and
23 cross examine witnesses. The testimony taken at the hearing
24 shall be under oath and recorded, and copies of the transcript
25 shall be furnished to the alleged violator or violators upon
26 his request and at his expense.

27 3. If after a hearing held pursuant to subsection one (1)
28 of this section, the commission finds that a violation or vio-
29 lations have occurred, it shall affirm or modify its order
30 previously issued, or issue an appropriate order or orders for
31 the prevention, abatement, or control of the emissions or air
32 pollution involved. If after hearing on an order, the commis-
33 sion finds that no violation is occurring, it shall rescind
34 the order. Any order issued as part of a notice or after hear-
35 ing shall prescribe the date or dates by which violation or
36 violations shall cease and may prescribe time tables for nec-
37 essary action in preventing, abating, or controlling the
38 emissions or air pollution.

39 4. Nothing in this Act shall prevent the commission and the
40 department from making efforts to obtain voluntary compliance
41 through warning, conference, or any other appropriate means.

42 5. If the commission, its technical secretary, or
43 the commissioner has

44 evidence that any person is causing or contributing to air
45 pollution and that such pollution creates an emergency requir-
46 ing immediate action to protect the public health and safety,
47 or property, either may, without notice or hearing, issue an
48 emergency order reciting that an emergency exists and requir-
49 ing such person or persons to reduce or discontinue immediately
50 the emission of air contaminants. Such order shall be effec-
51 tive immediately. Upon issuance of such order the commission
52 or its authorized representative shall fix a place and time of
53 hearing, such hearing to be held before the commission
54 not later than twenty-four (24) hours thereafter.

55 Not more than twenty-

56 four (24) hours from the commencement of such hearing, the
57 commission shall affirm, modify, or set aside such order.

1 Sec. 10. An appeal may be taken by an aggrieved party from
2 any order issued or entered as provided in section nine (9)
3 to the district court of the county in which the alleged
4 offense was committed. Notice of appeal from an order shall
5 be served upon the commission or the technical secretary by
6 certified mail or by personal service. Failure to serve such
7 notice of appeal within thirty (30) days after receipt of the
8 order shall operate as a waiver of the right to appeal. An
9 order by the commission shall not be stayed by an appeal
10 except by order of the district court after hearing for good
11 cause shown by the aggrieved party. The hearing on appeal
12 shall be tried as a suit in equity and shall be de novo.
13 The court may receive
14 additional testimony and evidence and may affirm, modify, or
15 reverse the order of the commission.

1 Sec. 11. If measures to prevent or correct air pollution
2 which is in violation of any rule or regulation promulgated by
3 the commission are not taken in accordance with an order of
4 the commission, or if the commission or its authorized repre-
5 sentative has evidence that an emergency exists by reason of
6 air pollution, requiring immediate action to protect the public

7 health or property, the attorney general shall, upon receiving
8 a request from the commission or its authorized representative,
9 bring an action in the name of the state for an injunction to
10 prevent any further or continued violation of such rule or
11 regulation or such order. In an action for a temporary
12 injunction brought pursuant to this section, any
13 previous findings of the commission, after due notice and
14 hearing, shall be prima facie evidence to the fact or
15 facts found therein.

1 Sec. 12. In all proceedings with respect to any
2 alleged violation of the provisions of this Act or any rule
3 or regulation promulgated hereunder, the burden of proof
4 shall be upon the commission except in an action for a
5 temporary injunction as provided for in Section eleven (11)
6 of this Act.

1 Sec. 13. Any person who owns or is in control of any plant,
2 building, structure, process, or equipment may apply for a
3 variance from rules, regulations, or standards governing the
4 quality, nature, duration, or extent of emissions by filing
5 an application with the technical secretary. The application
6 shall be accompanied by such information and data as the
7 commission may require.

8 1. The department shall promptly investigate such applica-
9 tion and make a recommendation to the commission as to the dis-
10 position thereof. The commission may grant such variance if
11 it finds that:

12 a. The emissions occurring or proposed to occur do not
13 endanger or tend to endanger human health or safety or property;
14 and

15 b. Compliance with the rules, regulations, or standards from
16 which variance is sought would produce serious hardship without
17 equal or greater benefits to the public.

18 2. A hearing shall be held if the commission in its dis-
19 cretion concludes that a hearing will be advisable. The person
20 applying for a variance may request a review hearing before

21 the commission if his application is denied.

22 3. In determining under what conditions and to what extent
23 a variance from this Act or rule or regulation hereunder may
24 be granted, the commission shall give due recognition to the
25 progress which the person requesting such variance shall have
26 made in eliminating or preventing air pollution. In such a
27 case, the commission shall consider the reasonableness of
28 granting a variance, conditioned upon such person effecting a
29 partial abatement of the particular air pollution over a period
30 of time which it shall consider reasonable under the circum-
31 stances, or the commission in conformity with the intent and
32 purpose of this Act to protect health and property, may pre-
33 scribe other and different requirements with which the person
34 who receives such variance shall comply.

35 4. Any variance granted shall be granted for such period
36 of time, not exceeding one (1) year, as shall be specified by
37 the commission at the time of the grant of such variance. Any
38 variance may be granted by the commission upon the condition
39 that the person who received it shall make such periodic reports
40 to the commission as the commission shall specify as to the
41 progress which such person shall have made toward compliance
42 with any rule or regulation as to which a variance has been
43 granted. Such variance may be extended from year to year by
44 affirmative action of the commission.

1 Sec. 14. 1. Any political subdivision is hereby authorized,
2 in addition to any other power vested by law, to conduct an
3 air pollution control program within the boundaries of its
4 jurisdiction, and to conduct air pollution control programs
5 jointly with other political subdivisions of this state or of
6 other states; provided that every joint program shall be
7 established and administered in accordance with the provisions
8 of chapter twenty-eight E (28E) of the Code. In conducting
9 such programs, political subdivisions shall have the power and
10 the authority to adopt and enforce rules, regulations, or stan-
11 dards for the purpose of securing and maintaining adequate

12 air quality within the respective jurisdictions.

13 2. If the board of supervisors in any county
14 establishes an air-pollution program and has obtained a
15 certificate of acceptance, the agency implementing the
16 program shall have jurisdiction over and may regulate
17 air pollution within the county including any incorporated
18 areas therein unless and until such incorporated areas
19 shall obtain a certificate of acceptance as a joint or
20 separate agency.

1 Sec. 15. When an air pollution control program conducted
2 by a political subdivision, or combination of two (2) or more
3 political subdivisions, is deemed upon review in accordance
4 with section four (4), subsection twelve (12), of this Act to
5 be consistent with the provisions of this Act or rules and
6 regulations promulgated thereunder, the commission shall
7 accept such program in lieu of administration of the regula-
8 tory provisions of this Act by the state within the jurisdic-
9 tion involved. Nothing contained herein shall be construed to
10 limit the power of the commission to take emergency action
11 under the provisions of section nine (9), subsection five
12 (5), of this Act.

13 1. In evaluating such a local air pollution control program,
14 consideration shall be given to whether such program provides
15 for the following:

16 a. Ordinances, rules, regulations, or standards establish-
17 ing requirements consistent with, or more strict than, those
18 imposed by this Act or rules, regulations, and standards
19 promulgated thereunder;

20 b. Enforcement of such requirements by appropriate adminis-
21 trative and judicial process; and

22 c. Administrative organization, staff, financial, and other
23 resources necessary to carry out its program effectively and
24 efficiently.

25 2. When a local air pollution control program has been
26 deemed to be consistent with the provisions of this Act, the

27 commission shall issue a certificate of acceptance to the
28 appropriate local agency.

29 a. Any political subdivision desiring a certificate of ac-
30 ceptance shall make application for such certificate to the
31 technical secretary on such forms as the commission may pre-
32 scribe.

33 b. The technical secretary shall investigate promptly such
34 application, and make a recommendation to the commission as to
35 the disposition thereof. Upon receiving an affirmative
36 recommendation from the technical secretary, the commission may
37 grant such certificate without a hearing. If the recommenda-
38 tion is against the granting of a certificate of acceptance, or
39 if the commission in its discretion concludes that a hearing is
40 advisable, the political subdivision shall be entitled to a
41 hearing as provided in section nine (9) of this Act on the
42 questions as to whether the local program is substantially con-
43 sistent with the provisions of this Act or rules and regulations
44 promulgated thereunder, and whether the local ordinance or regu-
45 lation is being enforced. The burden of proof thereof shall be
46 upon the political subdivision.

47 c. If the commission shall determine at any time that a
48 local program is being conducted by a political subdivision
49 holding a certificate of acceptance in a manner inconsistent
50 with the substantive provisions of this Act or rules and regu-
51 lations promulgated thereunder, the commission shall provide
52 to the political subdivision a notice reciting the deviations
53 from the standards and the corrective measures to be completed
54 within a reasonable period of time. If the commission finds,
55 after such period of time, that the political subdivision has
56 failed to take the specified corrective action, the commission
57 shall suspend the certificate of acceptance and shall admin-
58 ister the regulatory provisions of this Act in such political
59 subdivision until such standards are met. Upon receipt of
60 evidence that is deemed to show correction of the cause of
61 such suspension, the commission shall reinstate a suspended

62 certificate of acceptance, and the political subdivision shall
63 resume the regulatory functions involved upon receipt of
64 appropriate notice from the commission. In cases where the
65 certificate of acceptance is suspended, the political sub-
66 division shall be entitled to a hearing as specified in section
67 nine (9) of this Act.

68 d. Nothing in this Act shall be construed to supersede
69 the jurisdiction of any local air pollution control program
70 in operation on the effective date of this Act; provided that
71 within two (2) years from such date any such program shall
72 meet all requirements of this Act for a local air pollution
73 control program and an application for a certificate of
74 acceptance is submitted to the technical secretary.

1 Sec. 16. In the event the commission shall determine that
2 any final order or determination made by it is being violated,
3 the commission may cause to have instituted a civil action
4 in any court of competent jurisdiction for injunctive relief
5 to prevent any further violation of such final order or de-
6 termination or for the assessment of such penalty not to
7 exceed two hundred (200) dollars per day for each day such
8 violation continues as the court may deem proper, or both.
9 It shall be the duty of the attorney general to bring such
10 actions at the request of the commission in the name of the
11 people of the state of Iowa.

1 Sec. 17. Upon the failure of the technical secretary to
2 take action within sixty (60) days after an application for
3 installation permit or variance, or upon the failure of the
4 commission to enter a final order or determination within
5 sixty (60) days after the final argument in any hearing under
6 section nine (9) of this Act, the person seeking any of such
7 actions shall be entitled to treat for all purposes such failure
8 to act as a grant of the requested permit or variance, or of
9 a finding favorable to the respondent in any hearing under sec-
10 tion nine (9) of this Act, as the case may be.

1 Sec. 18. No fees shall be charged by the technical secre-
2 tary or the commission for the performance of any of their
3 respective functions under this Act.

1 Sec. 19. The powers, duties, and functions vested in the
2 commission under the provisions of this Act shall not be con-
3 strued to affect in any manner the powers, duties, and func-
4 tions vested in the department under any other provisions of
5 law.

1 Sec. 20. Section two hundred sixty-three point eight (263.8),
2 Code 1966, is hereby amended by adding the following:

3 "The laboratory also shall perform all laboratory examina-
4 tions and studies which may be requested by the state depart-
5 ment of health and the air pollution control commission. The
6 laboratory is authorized to perform such laboratory determina-
7 tions relating to air contaminants as may be requested by
8 political subdivisions or other persons, and the laboratory
9 also is hereby authorized to charge political subdivisions or
10 other persons fees covering transportation of samples and the
11 actual costs of examinations performed upon their request."

1 Sec. 21. There is hereby appropriated to the department from
2 the general fund of the state the sum of thirty-seven thousand
3 five hundred (37,500) dollars for each year of the ensuing
4 biennium for the purposes specified in this Act.

1 Sec. 22. There is hereby appropriated to the state bacter-
2 iological laboratory from the general fund of the state the sum
3 of thirty-three thousand five hundred (33,500)
4 dollars for each year of the
5 ensuing biennium for the purposes specified in this Act.

EXPLANATION

Air pollution is receiving nationwide attention. Although air pollution, at present, is not a serious problem in Iowa, the extent and scope of this problem must be expected to increase with urban and industrial development and population growth. Effort should therefore be made now to provide an

instrument and program to preserve the quality of the air resources of this state.

This bill establishes an air pollution control commission as an agency of the state government, having regulatory power, and authority of general supervision over administration and enforcement of all laws relating to air pollution in this state, including the provisions of this bill. The commission shall serve without compensation.

Provision is made for the commission to operate through the state department of health which serves as the technical and functional staff of the commission.

Provision is also made for political subdivisions to conduct local air pollution control programs individually or jointly with other political subdivisions in this state and in other states.

The bill provides an initial appropriation.

This bill also authorizes the state bacteriological laboratory to perform laboratory determinations and studies relating to contaminants that may be requested by the state department of health, the air pollution control council, political subdivisions, and other persons; authorizes the laboratory to charge political subdivisions and other persons fees covering the costs of the determinations so requested; and provides an initial appropriation to the laboratory for this type of service.

Amend House File 480 as follows:

1. Amend section seven (7) by inserting after the period (.) in line sixteen (16) the following:
 "Any rules or regulations pursuant to this Section shall be consistent with provisions of federal law, if any, relating to control of emissions from the vehicles concerned. The Air Pollution Control Commission shall not require, as a condition precedent to the initial sale of a vehicle or vehicular equipment, the inspection, certification or other approval of any feature or equipment designed for the control of emissions from motor vehicles, if such feature or equipment has been certified, approved or otherwise authorized pursuant to federal law."

Filed - *Last 6-1*
 May 11, 1967

By KYHL

Amend the Gaudineer amendment to House File 410 filed May 10, 1967 as follows:
 1. By adding the following after line eight (8):
 "2. By renumbering the remaining section in conformity with this amendment."

Filed - *Withdrawn 5-19*
 May 11, 1967

By GAUDINEER

1 Amend the Kyhl amendment to House File 480, filed
2 on May 11, as follows:
3 1. By striking lines two (2) and three (3) and
4 inserting in lieu thereof the following:
5 "1. Amend section four (4) by inserting after
6 the period (.) in line ninety-seven (97) the following:"

Filed - *Adopted 6-1*
May 12, 1967.

By KYHL

1 Amend House File 480 by striking in Section three (3), line
2 three (3), the words, "as an agency of the state government" and
3 by inserting in lieu thereof the words, "within the department of
4 health".

Filed and adopted
June 1, 1967

By GAUDINEER

1 Amend House File 480, Section four (4), line thirty-two (32),
2 by inserting after the word, "hearings" the words, "except when
3 the evidence to be received is confidential pursuant to Section
4 eight (8) of this Act".

Filed and adopted
June 1, 1967

By FROMMELT and GAUDINEER

1 Amend House File 480, Section eight (8), lines fourteen (14)
2 and fifteen (15), by striking the words, "identify, directly or
3 indirectly, any owner or operator or".

Filed and adopted
June 1, 1967

By GAUDINEER

1 Amend House File 480 by inserting in Section five (5), line
2 sixty-nine (69) after the word, "available" the words, "pursuant
3 to the Iowa merit system".

Filed and adopted
June 1, 1967

By GAUDINEER

1 Amend House File 480, Section four (4), line thirty-two (32),
2 by inserting the word "public" before the word "hearings".

Filed and adopted
June 1, 1967

By GAUDINEER and STANLEY

1 Amend House File 410 as follows:

2 1. By adding the following new section thereto to be
3 designated as section two (2).

4 "No such sewer connection charge or fee shall be valid
5 or collected by any city or town unless such city or town

6 by resolution certified to the county, and such resolution
7 has been filed for record, the amount of such sewer connection
8 charge or fee and the property to be charged therewith."

Filed - *Withdrawn 5-19*
May 10, 1967

By GAUDINEER.

1 Amend House File 480 as follows:

2 By striking in section three (3), line three (3), the words
3 agency of the state government" and by inserting in lieu there-
4 words "within the department of health".

5 By inserting in section four (4), line thirty-two (32), the
6 "public" before the word "hearings".

7 By inserting in section four (4), line thirty-two (32), after
8 word "hearings" the words "except when the evidence to be
9 is confidential pursuant to section eight (8) of this Act.

10 By inserting in section five (5), line sixty-nine (69) after
11 word "available" the words "pursuant to the Iowa merit system".

12 By striking in section eight (8), lines fourteen (14) and
13 the words "identify, directly or indirectly, any owner or
operator or".

As Adopted By the Senate

House Concurred 6-5