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HOUSE FILE 683  
BY COMMITTEE ON WAYS AND MEANS

APR 2 1991

WAYS & MEANS

(SUCCESSOR TO HF 169  
and HF 466)

Passed House, Date 4/24/91 (p. 1514) Passed Senate, Date 5/6/91 (A. 1689)  
Vote: Ayes 54 Nays 43 Vote: Ayes 49 Nays 0  
Approved June 10, 1991

A BILL FOR

1 An Act relating to the establishment of a toxics pollution  
2 prevention program, providing for the imposition of toxics  
3 pollution prevention and air contaminant source fees, and  
4 providing a penalty.

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

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HF 683

1 Section 1. NEW SECTION. 455B.502 FINDINGS.

2 The general assembly finds:

3 1. That the state annually produces millions of pounds of  
4 pollution and expends millions of dollars controlling this  
5 pollution.

6 2. That there are significant opportunities for industry  
7 to reduce or prevent pollution at the source through cost-  
8 effective changes in production, operation, and raw material  
9 use. These changes would afford industry substantial savings  
10 in raw materials, pollution control, and liability costs and  
11 would also reduce environmental harm and risks to worker  
12 health and safety.

13 3. That the opportunities for pollution prevention are  
14 often not realized due to ineffective regulations and  
15 insufficient industrial resources which are required for  
16 compliance with these regulations, due to a focus upon  
17 treatment and disposal rather than pollution prevention, due  
18 to the lack of an emphasis on a multimedia management approach  
19 to pollution prevention, and due to the lack of necessary  
20 information and technical assistance available to businesses  
21 in overcoming institutional barriers in adopting pollution  
22 prevention practices.

23 4. That pollution prevention is fundamentally different  
24 and more desirable than waste management or pollution control  
25 and that the state should address the historical lack of  
26 attention to pollution prevention.

27 Sec. 2. NEW SECTION. 455B.503 POLLUTION PREVENTION GOAL  
28 AND POLICY.

29 The goal of the state is to encourage pollution prevention  
30 through the use of pollution prevention techniques in place of  
31 waste management or pollution control, and through  
32 coordination and cooperation between federal, state, and local  
33 departments, agencies, and institutions in the development and  
34 administration of a pollution prevention program.

35 Sec. 3. NEW SECTION. 455B.504 DEFINITIONS.

1 As used in this part, unless the context otherwise  
2 requires:

3 1. "Authority" means the waste management authority  
4 created pursuant to section 455B.483.

5 2. "Bureau" means the toxics pollution prevention bureau  
6 created pursuant to section 455B.507.

7 3. "Council" means the toxics pollution prevention council  
8 established pursuant to section 455B.507.

9 4. "Commission" means the environmental protection  
10 commission established pursuant to section 455A.6.

11 5. "Comprehensive Environmental Response, Compensation,  
12 and Liability Act" or "CERCLA" means the Comprehensive  
13 Environmental Response, Compensation, and Liability Act,  
14 codified at 42 U.S.C. § 9601 et seq.

15 6. "Department" means the department of natural resources  
16 created pursuant to section 455A.2.

17 7. "Emergency Planning and Community Right-to-know Act" or  
18 "EPCRA" means the federal Emergency Planning and Community  
19 Right-to-know Act as defined in section 30.1.

20 8. "Environmental waste" means a pollutant, waste, or  
21 release regardless of the type or existence of regulation and  
22 regardless of the media affected by the pollutant, waste, or  
23 release.

24 9. "Existing toxics user" means a toxics user installation  
25 or source constructed prior to July 1, 1991.

26 10. "Multimedia" means any combination of air, water,  
27 land, or workplace environments into which toxic substances or  
28 wastes are released.

29 11. "Release" means emission, discharge, or disposal into  
30 any environmental media including air, water, or land.

31 12. "Toxics pollution prevention" means employment of a  
32 practice which reduces the industrial use of toxic substances  
33 or reduces the environmental and health hazards associated  
34 with an environmental waste without diluting or concentrating  
35 the waste before the release, handling, storage, transport,

1 treatment, or disposal of the waste. The term includes toxics  
2 pollution prevention techniques but does not include a  
3 practice which is applied to an environmental waste after the  
4 waste is generated or comes into existence on or after the  
5 waste exits a production or commercial operation.

6 "Toxics pollution prevention" does not include, promote, or  
7 require any of the following:

8 a. Waste burning in industrial furnaces, boilers,  
9 smelters, or cement kilns for the purpose of energy recovery.

10 b. The transfer of an environmental waste from one  
11 environmental medium to another environmental medium, the  
12 workplace environment, or a product.

13 c. Offsite waste recycling.

14 d. Any other method of end-of-pipe management of  
15 environmental wastes including waste exchange and the  
16 incorporation or embedding of regulated environmental wastes  
17 into products or by-products.

18 13. "Toxics pollution prevention techniques" means any of  
19 the following practices by a toxics user:

20 a. Input substitution, which refers to replacing a toxic  
21 substance or raw material used in a production process with a  
22 nontoxic or less toxic substance.

23 b. Product reformulation, which refers to substituting for  
24 an existing end product an end product which is nontoxic or  
25 less toxic upon use or release.

26 c. Production process redesign or modification, which  
27 refers to developing and using production processes of a  
28 different design than those currently in use.

29 d. Production process modernization, which refers to  
30 upgrading or replacing existing production process equipment  
31 or methods with other equipment or methods based on the same  
32 production process.

33 e. Improved operation and maintenance of existing  
34 production process equipment and methods, which refers to  
35 modifying or adding to existing equipment or methods,

1 including but not limited to, such techniques as improved  
2 housekeeping practices, system adjustments, product and  
3 process inspections, and production process control equipment  
4 or methods.

5 f. Recycling, reuse, or extended use of toxic substances  
6 by using equipment or methods which become an integral part of  
7 the production process.

8 14. "Toxic substance" means any chemical substance in a  
9 gaseous, liquid, or solid state which is identified on the  
10 toxic substance list established by rule pursuant to section  
11 455B.507. However, "toxic substance" does not include a  
12 chemical substance present in the article; used as a  
13 structural component of a facility; present in a product used  
14 for routine janitorial or facility grounds maintenance;  
15 present in foods, drugs, cosmetics, or other personal items  
16 used by employees or other persons at a toxics user facility;  
17 present in process water or noncontact cooling water as drawn  
18 from the environment or from municipal sources; present in air  
19 used either as compressed air or as part of combustion;  
20 present in a pesticide or herbicide when used in agricultural  
21 applications; or present in crude, fuel, or lube oils for  
22 direct wholesale or retail sale.

23 15. "Toxics" means toxic substances.

24 16. "Toxics user" means a large quantity generator as  
25 defined pursuant to the federal Resource Conservation and  
26 Recovery Act, 42 U.S.C. § 6901 et seq. or a person required to  
27 report pursuant to Title III of the federal Superfund  
28 Amendments and Reauthorization Act of 1986.

29 17. "Waste exchange" means a method of end-of-pipe  
30 management of environmental wastes that involves the transfer  
31 of environmental wastes between businesses or facilities owned  
32 or operated by the same business for recovery or to serve a  
33 productive purpose.

34 Sec. 4. NEW SECTION. 455B.505 DUTIES OF THE COMMISSION.

35 The commission shall do all of the following:

- 34701 1. Adopt rules based upon the recommendations of the toxic  
2 pollution prevention council which establish a list of toxic  
3 substances to be used as a basis for the reporting  
4 requirements of toxics users under this part.  
5 2. Adopt rules which provide for exemptions to or  
6 extensions for the reporting requirements for toxics users.  
7 3. Adopt all other rules necessary for the effective  
8 administration of this part.

9 Sec. 5. NEW SECTION. 455B.506 DUTIES OF THE DEPARTMENT.

10 The department shall do all of the following:

- 11 1. Identify all department and other state agency  
12 requirements relating to the reporting of the use or release  
13 of toxic substances, and to the greatest extent possible,  
14 standardize, consolidate, and coordinate reporting  
15 requirements to minimize unnecessary duplication.  
16 2. To the extent practicable, coordinate and compile  
17 information regarding the release or use of toxic substances  
18 in order to provide access to this information to facilitate  
19 inspections of toxics users and to facilitate the enforcement  
20 of provisions of this part relating to toxic substances.  
21 3. In order to facilitate the coordination of reporting  
22 requirements, seek unified reporting and enforcement authority  
23 from the United States environmental protection agency  
24 regarding federal toxics laws and regulations.  
25 4. Develop and implement guidelines and rules regarding  
26 inspections of toxics users to ensure that, where appropriate,  
27 inspections are multimedia in approach and are not duplicated  
28 by the department or other agencies of the state.

347029 Sec. 6. NEW SECTION. 455B.507 TOXICS POLLUTION  
30 PREVENTION BUREAU AND COUNCIL ESTABLISHED.

- 31 1. A toxics pollution prevention bureau is established  
32 within the waste management authority of the department of  
33 natural resources for the purpose of carrying out the  
34 provisions of this part.  
35 2. The bureau shall do all of the following:

- 1 a. Develop and implement, in accordance with the  
2 recommendations of the toxics pollution prevention council, a  
3 toxics pollution prevention program.
- 4 b. Assist toxics users in completion of the toxic  
5 pollution prevention plans and provide technical assistance as  
6 required or requested by the toxics user.
- 7 c. Seek, receive, and accept funds in the form of  
8 appropriations, grants, awards, wills, bequests, endowments,  
9 and gifts for deposit in the toxics pollution prevention fund.
- 10 d. Award grants, from the toxics pollution prevention  
11 fund, to support and sustain toxics pollution prevention  
12 efforts including efforts which provide for prevention through  
13 reduction in the use of toxics in production and commerce, and  
14 which may include any of the following:
- 15 (1) Grants to nonprofit organizations to establish  
16 technical assistance programs to supplement the activities of  
17 the department.
- 18 (2) Grants to assist trade associations, industry  
19 organizations, labor organizations, and educational  
20 institutions in developing and making available to toxics  
21 users and employees of toxics users, training materials which  
22 promote toxics pollution prevention within a toxics user's  
23 facility.
- 24 (3) Grants to assist industry organizations, educational  
25 institutions, and labor organizations in establishing programs  
26 or materials to train and assist industry personnel in  
27 developing methods to measure the effects of and plan for  
28 toxics pollution prevention.
- 29 (4) Grants to assist industry organizations and  
30 educational institutions in creating programs to train and  
31 certify environmental auditors, engineers, and industrial  
32 hygienists to identify, evaluate, and implement toxics  
33 pollution prevention measures and alternatives to performance  
34 of audits, plans, and programs.
- 35 (5) Grants to organizations for research and development,

1 pilot tests, and demonstration projects that involve commonly  
2 used industrial or commercial processes or materials and which  
3 will produce results, useful to businesses other than those  
4 involved in the research and development, pilot tests, or  
5 demonstration projects.

6 The bureau may require the provision of matching funds for  
7 a grant awarded under this paragraph. Grant moneys awarded  
8 under this paragraph shall not be used for capital  
9 improvements or equipment.

10 e. Employ qualified personnel to implement the provisions  
11 of the toxics pollution prevention program.

12 3. A toxics pollution prevention council to the bureau is  
13 established consisting of the following members:

14 a. One representative of the center for health effects of  
15 environmental contamination at the university of Iowa,  
16 appointed by its director.

17 b. One representative of the Iowa waste reduction center  
18 at the university of northern Iowa, appointed by its director.

19 c. One representative of the college of engineering at  
20 Iowa state university of science and technology, appointed by  
21 its president.

22 d. One representative of the department of natural  
23 resources, appointed by its director.

24 e. One representative of the department of employment  
25 services, appointed by its director.

26 f. One representative of the labor center established at  
27 the university of Iowa, appointed by its director.

28 g. One representative of small businesses, appointed by  
29 the director of the department.

30 h. One representative of large businesses, appointed by  
31 the director of the department.

32 i. Two at-large representatives with expertise in  
33 environmental issues related to toxics pollution prevention,  
34 appointed by the director of the department.

35 A public member shall not have a conflict of interest. For



1 the purposes of this section, "conflict of interest" means an  
2 affiliation, within the twelve months before the member's  
3 appointment, with the affected toxics user community.

4 The members shall serve four-year staggered terms which  
5 shall begin and end as provided in section 69.19, and any  
6 vacancy shall be filled by the original appointing authority.

7 Public members of the council shall receive per diem as  
8 provided pursuant to section 7E.6 and shall be reimbursed for  
9 actual and necessary expenses incurred in the performance of  
10 their official duties.

11 The council shall meet at least quarterly and on call of  
12 the chairperson. A majority of the council members  
13 constitutes a quorum for conducting official business. A  
14 majority vote of the quorum is required for passage of any  
15 matter of business. The council shall establish procedures  
16 and requirements with respect to the conducting of council  
17 meetings and the election of a chairperson and other officers.

18 4. The council shall do all of the following:

19 a. Make recommendations to the commission regarding the  
20 adoption of rules which establish a list of toxic substances  
21 to be used as a basis for the reporting requirements of toxics  
22 users under this part. The rules shall provide that the list  
23 consists of the following and is developed in the following  
24 manner:

25 (1) Beginning January 1, 1992, the list shall consist of  
26 the chemicals identified on the toxic chemical list pursuant  
27 to section 313 of EPCRA. The council shall, annually,  
28 recommend to the commission amendments to the list consistent  
29 with the changes in the toxic chemical list pursuant to  
30 section 313 of EPCRA.

31 (2) Beginning January 1, 1993, the commission shall  
32 develop a priority list of chemicals derived from the federal  
33 Resource Conservation and Recovery Act biennial reports  
34 required pursuant to 42 U.S.C. § 6901 et seq. Priority shall  
35 be given to the chemicals which present the most significant

1 health, safety, and environmental concerns to Iowans and to  
2 the state.

3 (3) For the calendar year beginning January 1, 1994, and  
4 thereafter, the council shall recommend and the rules shall  
5 provide that the commission amend the toxic substances list by  
6 adding or deleting not more than ten chemicals during any one  
7 calendar year. The council shall provide recommendations to  
8 the commission regarding proposed amendments of the list.

9 b. Make recommendations to the commission regarding the  
10 adoption of rules to implement a toxics pollution prevention  
11 program.

12 c. Make policy recommendations, annually, in a report to  
13 the governor and the general assembly regarding toxics  
14 pollution prevention.

15 d. Establish an annual toxics pollution prevention award  
16 program to recognize outstanding achievement in toxics  
17 pollution prevention.

18 e. Periodically review state environmental programs and  
19 projects regarding achievement and promotion of toxics  
20 pollution prevention techniques.

21 f. Assist the bureau in identifying obstacles to the  
22 promotion, within the toxics user community, of toxics  
23 pollution prevention techniques and practices by doing all of  
24 the following:

25 (1) Assessing toxics pollution prevention plans submitted  
26 by toxics users.

27 (2) Encouraging regulatory flexibility to afford toxics  
28 users the opportunity to develop or employ toxics pollution  
29 prevention techniques or practices.

30 (3) Performing toxics pollution prevention impact analyses  
31 of proposed rules prior to adoption and assisting agencies  
32 involved in the regulation of toxics users to formulate  
33 standards, rules, and programs based upon the toxics pollution  
34 prevention goal of the state.

35 g. Promote increased coordination between the divisions of

1 the department and between the department and other  
2 departments, agencies, and institutions with responsibilities  
3 relating to toxic substances to facilitate joint planning  
4 processes, research, public hearings, hazard assessments,  
5 environmental and workplace impact statements, and impact  
6 analyses for proposed rules.

7 h. Develop methods to measure the progress of toxics  
8 pollution prevention.

9 i. Coordinate existing resources, to the extent possible,  
10 to accomplish the duties of the council and the toxics  
11 pollution prevention goal of the state.

12 j. Establish criteria for recommendation to the commission  
13 regarding the multimedia toxics pollution prevention plans.

14 k. Provide a forum for discussion and deliberation on  
15 matters pertaining to the implementation of this part.

16 l. Receive public inquiries concerning toxic substances  
17 and toxics pollution prevention.

18 m. Study and formulate recommendations on particular  
19 issues and problems arising in the area of toxic substances  
20 and toxics pollution prevention.

21 n. Conduct research studies and programs to collect and  
22 analyze data and to prepare reports relative to toxic  
23 substances and toxics pollution prevention.

24 o. Develop criteria for the awarding of grants by the  
25 bureau, subject to approval by the commission, through  
26 allocation of the moneys within the toxics pollution  
27 prevention fund, to ensure consistency with the goal of the  
28 state regarding toxics pollution prevention, for any of the  
29 following:

30 (1) To assist in developing and making available to  
31 workers, training materials for use within a toxics user  
32 facility, which encourage toxics pollution prevention.

33 (2) To assist in establishing programs or materials to  
34 train and assist toxics user personnel in developing methods  
35 and measures of toxics pollution prevention.

1 (3) To create technical assistance programs to supplement  
2 the assistance provided by the department.

3 (4) To develop and implement demonstration projects in the  
4 area of toxics pollution prevention.

5 p. Oversee the applications for and disbursement of  
6 federal grant moneys, made available through assistance by the  
7 bureau, to provide consistency in achieving the goal of the  
8 state in toxics pollution prevention.

9 2480 Sec. 7. NEW SECTION. 455B.508 TOXICS POLLUTION  
10 PREVENTION PLANS.

11 1. A toxics user required to report under section 313 of  
12 EPCRA, 42 U.S.C. § 11023, or a large quantity generator, as  
13 defined pursuant to the federal Resource Conservation and  
14 Recovery Act, 42 U.S.C. § 6901 et seq., shall complete and  
15 submit to the department a facility-wide multimedia toxics  
16 pollution prevention plan, as described pursuant to this  
17 section, in accordance with the schedule established by the  
18 department pursuant to subsection 9.

19 2. The toxics pollution prevention council shall recommend  
20 to the commission, and the commission shall adopt, by rule,  
21 criteria for the information required in a multimedia toxics  
22 pollution prevention plan. To the extent possible, the plans  
23 shall coordinate reporting requirements in order to minimize  
24 unnecessary duplication. The plans shall include, but are not  
25 limited to, all of the following:

26 a. A policy statement which articulates upper management  
27 and corporate support for the toxics pollution prevention plan  
28 and its implementation.

29 b. The identification and quantities of toxic substances  
30 used and released and the amount of hazardous waste generated.  
31 The estimates shall be provided for the total toxics used and  
32 released, for the total hazardous waste generated, and for  
33 each production process, line, method, activity, or technique,  
34 or combination of these, used to produce a product.

35 c. An assessment of the applicability, for each production

1 process, line, method, activity, or technique, or a  
2 combination of these, in which a toxic substance is used, of  
3 each of the approaches designated as toxics pollution  
4 prevention techniques including input substitution; product  
5 reformulation; production process redesign or modification;  
6 production process modernization; improved operation and  
7 maintenance of existing production process equipment and  
8 methods; and recycling, reuse, or extended use of toxic  
9 substances.

10 d. A description of current and previous techniques used  
11 to reduce or eliminate toxics used or released or hazardous  
12 waste generated.

13 e. An economic analysis which includes identification of  
14 the present costs of pollution controls, waste management,  
15 insurance liability related to the use of toxic substances,  
16 and annual toxic substances input. The economic analysis  
17 shall also include an evaluation of the impact upon the toxics  
18 user's existing labor force by division or department, and the  
19 projected impact upon future expansion of the toxics user's  
20 labor force.

21 f. A clear statement listing specific reduction  
22 objectives.

23 g. A requirement that employees of a toxics user provide  
24 input and are involved in the development of the plans. If  
25 the employees are represented by a labor union, organization,  
26 or association, a representative of the union, organization,  
27 or association shall be included in the development of the  
28 plans.

29 3. The plans required under this section shall not promote  
30 the use of pollution control or waste management approaches  
31 that address waste or pollution after the creation of the  
32 waste or pollution.

33 4. The bureau shall employ qualified personnel to  
34 implement the provisions of the toxics pollution prevention  
35 program relating to the development and review of the toxics

1 pollution prevention plans.

2 5. A toxics pollution prevention plan developed under this  
3 section shall be submitted to the department for review and  
4 approval as acceptable under the criteria established by rule  
5 of the commission. The department shall review the plans for  
6 completeness, adequacy, and accuracy.

7 6. A toxics user shall maintain a copy of the plan on the  
8 premises, and shall submit a summary of the plan to the  
9 department.

10 7. A person who does not submit a plan in accordance with  
11 the schedule prescribed in subsection 9, which is approved as  
12 acceptable, is subject to a civil penalty of ten thousand  
13 dollars.

14 8. The department shall establish a pilot project to  
15 assess the feasibility of the preparation of toxics pollution  
16 prevention plans and the quality of information generated from  
17 the plans. The department shall request the participation of  
18 toxics users in the pilot project and shall select a  
19 representative sample of the volunteering toxics users as  
20 participants in the pilot project. The department shall  
21 assist the participants in the development of toxics pollution  
22 prevention plans to be submitted to the department for review  
23 by July 1, 1993.

24 9. Following completion of the pilot project and review of  
25 the results, the department shall establish the following  
26 schedule for the submitting of the toxics pollution prevention  
27 plans required by this section:

28 a. A toxics user who generates, on an annual basis, one  
29 hundred or more tons of hazardous waste, as defined pursuant  
30 to section 455B.411, shall complete and submit a plan to the  
31 department by July 1, 1994.

32 b. A toxics user who generates, on an annual basis, less  
33 than one hundred tons of hazardous waste and is subject to the  
34 reporting requirements pursuant to section 313 of EPCRA, shall  
35 complete and submit a plan to the department by July 1, 1995.

1 c. A toxics user who is subject to the reporting  
2 requirements of section 313 of EPCRA and is not a large  
3 quantity generator as defined pursuant to the federal Resource  
4 Conservation and Recovery Act, shall complete and submit a  
5 plan to the department by July 1, 1996.

6 d. A toxics user who is a large quantity generator as  
7 defined pursuant to the federal Resource Conservation and  
8 Recovery Act and who is not subject to the reporting  
9 requirements of section 313 of EPCRA, shall complete and  
10 submit a plan to the department by July 1, 1997.

11 Plans required to be submitted under this section shall be  
12 renewed every four years following the date of initial  
13 submission.

14 Sec. 8. NEW SECTION. 455B.509 TOXICS POLLUTION  
15 PREVENTION FEE IMPOSED.

16 1. The commission shall adopt by rule in accordance with  
17 chapter 17A the following fees to be paid by toxics users for  
18 deposit in the general fund of the state to be appropriated  
19 for the purposes designated. Toxics users who are persons  
20 required to report pursuant to Title III of the federal  
21 Superfund Amendments and Reauthorization Act of 1986 shall pay  
22 the required fees beginning July 1, 1991, and toxics users who  
23 are large quantity generators, as defined pursuant to the  
24 federal Resource Conservation and Recovery Act, shall pay the  
25 required fees beginning July 1, 1992.

26 a. An annual fee of one hundred fifty dollars for each  
27 toxic pollutant released.

28 b. In addition to the annual fee requirement prescribed  
29 under paragraph "a", the following annual fee:

30 (1) A toxics user who releases more than twenty-five  
31 thousand pounds of toxic pollutants, annually, shall pay an  
32 amount of twenty-four dollars per ton of toxic pollutants  
33 released.

34 (2) A toxics user who releases twenty-five thousand pounds  
35 or less of toxic pollutants, annually, shall pay a fee which

1 is the greater of five hundred dollars or twenty-four dollars  
2 per ton of toxic pollutants released.

3 2. The moneys collected shall be appropriated for use by  
4 the authority based upon recommendations of the council for  
5 the following purposes:

6 a. Of the initial amount of moneys collected annually, no  
7 more than thirty percent, or so much thereof as is necessary,  
8 shall be used to provide funding to the department, the  
9 authority, and other agencies and institutions in implementing  
10 the provisions of this part relating to toxics pollution  
11 prevention.

12 b. The remainder of and at least seventy percent of the  
13 moneys collected annually shall be used for the following:

14 (1) To provide funding for grants approved by the toxics  
15 pollution prevention council or the commission.

16 (2) To provide technical and other assistance to toxics  
17 users in complying with the provisions of this part.

18 Sec. 9. Section 30.7, Code 1991, is amended by adding the  
19 following new subsection:

20 NEW SUBSECTION. 5. The department of employment services  
21 shall compile data or information from the emergency and  
22 hazardous chemical inventory forms required to be submitted to  
23 the commission under section 312 of the Emergency Planning and  
24 Community Right-to-know Act, 42 U.S.C. § 11022, by county, and  
25 shall make the compiled reports available to each county in  
26 the state by providing the report to at least one public  
27 library in the named county. The report shall include  
28 information, in lay terms, which provides an assessment of the  
29 health effects associated with the most prevalent chemicals  
30 listed in the respective county inventories.

31 Sec. 10. Section 30.8, Code 1991, is amended by adding the  
32 following new subsection:

33 NEW SUBSECTION. 4. The department of natural resources  
34 shall compile the data collected pursuant to section 313 of  
35 the Emergency Planning and Community Right-to-know Act, 42



1 U.S.C. § 11023, and shall make the compiled data available to  
2 the public upon request.

3 Sec. 11. Section 455B.133, subsection 4, unnumbered  
4 paragraph 1, Code 1991, is amended to read as follows:

5 Adopt, amend or repeal emission limitations or standards  
6 relating to the maximum quantities of air contaminants that  
7 may be emitted from any air contaminant source. The standards  
8 or limitations adopted under this section ~~shall~~-not may exceed  
9 the standards or limitations promulgated by the administrator  
10 of the United States environmental protection agency or the  
11 requirements of the federal Clean Air Act as amended to  
12 January 1, ~~1979~~ 1991. This does not prohibit the commission  
13 from adopting a standard for a source or class of sources for  
14 which the United States environmental protection agency has  
15 not promulgated a standard.

16 Sec. 12. Section 455B.133, Code 1991, is amended by adding  
17 the following new subsection:

18 NEW SUBSECTION. 8. Adopt rules which require the owner or  
19 operator of an air contaminant source to obtain an operating  
20 permit prior to operation of the source. The rules shall  
21 specify the information required to be submitted with the  
22 application for a permit and the conditions under which a  
23 permit may be issued, suspended, modified, revoked, or  
24 renewed.

25 Sec. 13. NEW SECTION. 455B.133A AIR CONTAMINANT SOURCE  
26 FEE IMPOSED.

27 The department, pursuant to the federal Clean Air Act of  
28 1990, section 502, Pub. L. No. 101-549, shall collect an air  
29 contaminant source fee in an amount established by the  
30 commission by rule which is at least twenty-five dollars per  
31 353 ton of each regulated pollutant and is sufficient to cover all  
32 of the reasonable costs of the permit, monitoring, and  
33 inspection program including the development and  
34 implementation of the small business stationary source  
35 technical and environmental compliance assistance program

1 required pursuant to the federal Clean Air Act of 1990,  
2 section 507, Pub. L. No. 101-549. The moneys collected shall  
3 be deposited in the air contaminant source fund and shall be  
4 used solely for the costs of the permit, monitoring, and  
5 inspection program including the small business stationary  
6 source technical and environmental compliance assistance  
7 program.

8 Sec. 14. NEW SECTION. 455B.133B AIR CONTAMINANT SOURCE  
9 FUND CREATED.

10 An air contaminant source fund is created in the office of  
11 the treasurer of state under the control of the department.  
12 Moneys received from the fees assessed pursuant to section  
13 455B.133A shall be deposited in the fund and are appropriated  
14 and shall be used solely to defray the costs related to the  
15 permit, monitoring, and inspection program, including the  
16 small business stationary source technical and environmental  
17 compliance assistance program required pursuant to the federal  
18 Clean Air Act of 1990, section 507, Pub. L. No. 101-549.  
19 Notwithstanding section 8.33, any unexpended balance in the  
20 fund at the end of each fiscal year shall be retained in the  
21 fund. Notwithstanding section 453.7, any interest and  
22 earnings on investments from money in the fund shall be  
23 credited to the fund.

24 <sup>20907</sup> Sec. 15. Section 455B.134, subsection 3, unnumbered  
25 paragraph 1, Code 1991, is amended to read as follows:

26 Grant, modify, or deny permits for the construction or  
27 operation of new or modified air contaminant sources and for  
28 related control equipment, and conditional permits for  
29 electric power generating facilities subject to chapter 476A  
30 and other major stationary sources, subject to the rules  
31 adopted by the commission. The department shall furnish  
32 necessary application forms for such permits.

33 Sec. 16. Section 455B.134, subsection 3, Code 1991, is  
34 amended by adding the following new paragraph e, and  
35 relettering the subsequent paragraph:

1     NEW PARAGRAPH. e. An air contaminant source for which a  
2 construction permit or conditional permit has been issued  
3 shall not be operated unless an operation permit also has been  
4 issued for the source. Operation permits shall contain  
5 conditions and schedules of compliance necessary to ensure  
6 that the air contaminant source will meet all applicable  
7 standards. If construction of a new air contaminant source is  
8 proposed, an operation permit shall be issued concurrently  
9 with the construction permit for the source whenever possible  
10 and appropriate.

11     Sec. 17. Section 455B.134, subsection 9, Code 1991, is  
12 amended to read as follows:

13     9. Issue orders consistent with rules to cause the  
14 abatement or control of air pollution, or to secure compliance  
15 with permit conditions. In making the orders, the director  
16 shall consider the facts and circumstances bearing upon the  
17 reasonableness of the emissions involved, including but not  
18 limited to, the character and degree of injury to, or  
19 interference with, the protection of health and the physical  
20 property of the public, the practicability of reducing or  
21 limiting the emissions from the air pollution source, and the  
22 suitability or unsuitability of the air pollution source to  
23 the area where it is located. An order may include advisory  
24 recommendations for the control of emissions from an air  
25 contaminant source and the reduction of the emission of air  
26 contaminants.

27     Sec. 18. Section 455B.141, Code 1991, is amended to read  
28 as follows:

29     455B.141 LEGAL ACTION.

30     If action to prevent, control, or abate air pollution is  
31 not taken in accordance with the rules established, or orders  
32 or permits issued by the department, or if the director has  
33 evidence that an emergency exists by reason of air pollution  
34 which requires immediate action to protect the public health  
35 or property, the attorney general, at the request of the

1 director, shall commence legal action, in the name of the  
2 state, for an injunction to prevent any further or continued  
3 violation of such rule or order.

4 Sec. 19. CODIFICATION. The Code editor shall codify  
5 sections 455B.502 through 455B.509, as enacted in this Act, as  
6 a new part of division VI of chapter 455B.

7 EXPLANATION

8 This bill establishes a toxics pollution prevention program  
9 and establishes a state policy which encourages pollution  
10 prevention in place of waste management or pollution control.  
11 The bill defines terms such as "toxics pollution prevention",  
12 "toxics pollution prevention techniques", and "toxic  
13 substances" and prescribes the duties of the existing  
14 environmental protection commission and the department of  
15 natural resources relating to the toxics pollution prevention  
16 program. The bill also establishes a toxics pollution  
17 prevention bureau and council to the bureau within the waste  
18 management authority division of the department of natural  
19 resources and provides duties for both the bureau and the  
20 council. The bureau's duties include the development and  
21 implementation of the toxics pollution prevention program,  
22 providing technical assistance to those required to  
23 participate in the program, and the awarding of grants  
24 relating to toxics pollution prevention efforts. The duties  
25 of the council, which is comprised of 10 members designated in  
26 the bill, include making recommendations to the environmental  
27 protection commission to establish a list of toxic substances  
28 to be used as a basis for the reporting requirements of toxics  
29 users, making policy recommendations to the governor and the  
30 general assembly, coordinating the responsibilities of various  
31 agencies and other entities regarding toxics, conducting  
32 research, developing criteria for the awarding of grants by  
33 the bureau, and overseeing the expenditure of federal grant  
34 moneys to achieve the toxics pollution prevention goal of the  
35 state.

1 The bill provides for the development and submission to the  
2 department of natural resources of toxics pollution prevention  
3 plans by outlining the required elements of the plans,  
4 providing for a pilot project to assess the feasibility of the  
5 preparation of such plans and the quality of information  
6 generated from the plans, and provides for a schedule for the  
7 submission of the plans by toxics users. The bill also  
8 imposes a fee based upon the releases of toxics users for  
9 deposit in the general fund to be appropriated to the waste  
10 management authority for uses related to the toxics pollution  
11 prevention program. The bill requires the department of  
12 employment services to compile, from the currently required  
13 emergency and hazardous chemical inventory forms, information  
14 in reports to be available to each county in the state, and  
15 requires the department of natural resources to make available  
16 to the public upon request, currently collected information  
17 regarding manufacturers' releases of over 300 toxic chemicals.

18 The bill provides for the adoption of emission limitations  
19 or standards, relating to air contaminants, which exceed those  
20 promulgated by the federal government. The bill also provides  
21 for state compliance with the requirements of the federal  
22 Clean Air Act of 1990 by requiring operating permits for air  
23 contaminant sources and by imposing a fee based upon the  
24 release of regulated pollutants by air contaminant sources.

25 The bill establishes a new division VI in chapter 455B.

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HOUSE FILE 683  
FISCAL NOTE

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A fiscal note for House File 683 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 683 relates to toxic pollution prevention. The bill contains the following provisions with potential fiscal effects.

## Section 5

The Department of Natural Resources (DNR) is required to coordinate and compile information regarding the release or use of toxic substances, to award grants for various toxic pollution prevention programs, and to seek unified reporting and enforcement authority from the United State Environmental Protection Agency (USEPA).

## Section 6

Creates a Toxics Pollution Prevention Bureau in the Waste Management Authority Division of the DNR. The primary purpose of the Bureau is to work with industry in the development of Toxics Pollution Prevention Plans required in Section 7.

## Section 8

Establishes an annual Toxics Pollution Prevention fee to be paid by users of toxic substances as defined in the bill. Toxic user who must report under the federal SARA Title III legislation must pay the fees beginning July 1, 1991, while those required to report under the federal RCRA legislation must pay the fee beginning July 1, 1992. Each facility would pay an annual fee of \$150 for each toxic substance released. Also, each facility would pay a \$24 per ton fee for each toxic substance released, with a minimum fee of \$500 per year. The fees are deposited in the General Fund. This Section also requires that no more than 30% of the fees collected can be used by the DNR, or other agencies given duties under the bill, for administration of the toxic pollution prevention programs.

## Section 9

Requires the Department of Employment Services (DES) to compile data from forms submitted to DES under federal law. This information relates to the hazardous chemicals stored at a facility. DES is to make the compiled information available to the public.

## Section 10

Requires the DNR to compile data collected pursuant to the Section 313 of the federal Emergency Planning and Community Right-to-Know Act and shall make the

-2-

data available to the public.

#### Section 11

Removes the stringency clause relating to State regulation of air toxic emissions.

#### Section 12

Directs the DNR to adopt rules requiring certain facility to obtain air emissions operating permits.

#### Section 13

Establishes a fee, pursuant to federal requirements, on the emission of air toxics. The fee shall be set by the Environmental Protection Commission, and shall be at least \$25 per ton. Fees collected are to be deposited in a special fund created in Section 14, and are to be used only for the air toxics program.

#### ASSUMPTIONS

1. The creation of a Bureau within the DNR to review the pollution prevention plans and to award grants will require \$225,000 for 4.0 FTE positions and related support.
2. The information collection and distribution mandates given to the Department of Employment Services will require \$50,000 and 1.0 FTE position.
3. The Toxic Pollution Prevention Council established will require \$25,000 for per diem and related expenses.
4. The program will award \$600,000 in grants per year.
5. The Environmental Protection Division of the DNR will require \$850,000 for 7 FTE positions and related expenses to administer the air toxic portions of the bill.
6. A total of 29,350 tons of toxics released into the air, water and land will be subject to the Toxic Pollution Prevention Fee created in Section 8.
7. A total of 21,550 tons of toxics released into the air will be subject to the Air Contaminant Source Fee created in Section 13.
8. The fees imposed by the bill will apply to a total of 331 facilities for the first year of the program.
9. The average facility releases four chemicals to which the fees will apply, and the average amount released will be a total of 175,000 per facility for all released chemicals.

#### FISCAL EFFECT

-3-

The Toxic Pollution Prevention Fees will generate \$900,000 for grants and plan review. The per substance fee will generate \$200,000 while the per ton fee will generate \$700,000. These figures apply only to the first year of the program. The amount of funds generated by the fees once the RCRA large quantity generators are included cannot be projected at this time.

For the first 2 years, the per ton fee on air toxics is projected to be the federal minimum fee of \$25 per ton. This is expected to generate more than \$1 million per year, which is above the \$850,000 required to administer the program in the first 2 years. However, once the program is fully operational (required by the federal government to be by November 1993), the cost of the program will rise. Balances from previous years will be used to fund the program expansion. Once the ending balance is expended, the per ton fee could rise above \$25 per ton. However, the final program cost or fee level cannot be determined due to uncertainties in the federal mandates.

Sources:

Department of Natural Resources  
Department of Employment Services  
United States Environmental Protection Agency  
Citizens Fund

(LSB 1154hz.2, JWR)

FILED APRIL 5, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR



## HOUSE FILE 683

H-3490

1 Amend House File 683 as follows:

- 2 1. Page 2, by striking lines 5 and 6.  
3 2. Page 5, lines 1 and 2, by striking the words  
4 "toxic pollution prevention council" and inserting the  
5 following: "authority".  
6 3. By striking page 5, line 29 through page 11,  
7 line 8 and inserting the following:  
8 "Sec. . NEW SECTION. 455B.507 DUTIES OF THE  
9 AUTHORITY."

10 The waste management authority shall do all of the  
11 following:

- 12 1. Develop and implement, in accordance with the  
13 recommendations of the toxics pollution prevention  
14 council, a toxics pollution prevention program.  
15 2. Establish the criteria for the development of  
16 the toxics pollution prevention program.  
17 3. Assist toxics users in the completion of toxics  
18 pollution prevention plans and inventories, and  
19 provide technical assistance as requested by the  
20 toxics user.  
21 4. Seek, receive, and accept funds in the form of  
22 appropriations, grants, awards, wills, bequests,  
23 endowments, and gifts for the uses designated pursuant  
24 to section 455B.509.  
25 5. Award grants, from the moneys collected  
26 pursuant to section 455B.509, to support and sustain  
27 toxics pollution prevention efforts including efforts  
28 which provide for prevention through reduction in the  
29 use of toxics in production and commerce, and which  
30 may include any of the following:  
31 a. Grants to toxics users who submit a letter of  
32 intent to the division to develop toxics pollution  
33 prevention plans.  
34 b. Grants to nonprofit organizations to establish  
35 technical assistance programs to supplement the  
36 activities of the department and the division.  
37 c. Grants to assist trade associations, industry  
38 organizations, labor organizations, and educational  
39 institutions in developing and making available to  
40 toxics users and employees of toxics users, training  
41 materials which promote toxics pollution prevention  
42 within a toxics user's facility.  
43 d. Grants to assist industry organizations,  
44 educational institutions, and labor organizations in  
45 establishing programs or materials to train and assist  
46 industry personnel in developing methods to measure  
47 the effects of and plan for toxics pollution  
48 prevention.  
49 e. Grants to assist industry organizations and  
50 educational institutions in creating programs to train

H-3490

Page 2

1 and certify environmental auditors, engineers, and  
2 industrial hygienists to identify, evaluate, and  
3 implement toxics pollution prevention measures and  
4 alternatives to performance of audits, plans, and  
5 programs.

6 f. Grants to organizations for research and  
7 development, pilot tests, and demonstration projects  
8 that involve commonly used industrial or commercial  
9 processes or materials and which will produce results  
10 useful to businesses other than those involved in the  
11 research and development, pilot tests, or  
12 demonstration projects.

13 The division may require the provision of matching  
14 funds for a grant awarded under this subsection.

15 Grant moneys awarded under this subsection shall not  
16 be used for capital improvements or equipment.

17 Preference in the awarding of grants under this  
18 subsection shall be given to toxics users who submit  
19 letters of intent to develop toxics pollution  
20 prevention plans.

21 6. Make loans from the moneys collected pursuant  
22 to section 455B.509 to toxics users for the purchase  
23 of capital improvements or equipment which facilitates  
24 the implementation of toxics pollution prevention  
25 techniques.

26 7. Make recommendations to the commission  
27 regarding the adoption of rules which establish a list  
28 of toxic substances to be used as a basis for the  
29 reporting requirements for toxics users under this  
30 part. The rules shall provide that the list consists  
31 of the following and is developed in the following  
32 manner:

33 a. Beginning July 1, 1991, the list shall consist  
34 of the chemicals identified on the toxic chemical list  
35 pursuant to section 313 of EPCRA. The authority  
36 shall, annually, recommend to the commission  
37 amendments to the list consistent with the changes in  
38 the toxic chemical list pursuant to section 313 of  
39 EPCRA.

40 b. By July 1, 1992, the commission shall develop a  
41 priority list of chemicals derived from the federal  
42 Resource Conservation and Recovery Act biennial  
43 reports required pursuant to 42 U.S.C. § 6901 et seq.  
44 Priority shall be given to the chemicals which present  
45 the most significant health, safety, and environmental  
46 concerns to Iowans and to the state.

47 8. Submit an annual report to the governor and the  
48 general assembly which includes policy  
49 recommendations, developed in consultation with the  
50 council, regarding toxics pollution prevention and a

H-3490

Page 3

- 1 review of state environmental programs and projects
- 2 regarding the achievement and promotion of toxics
- 3 pollution prevention techniques.
- 4 9. Identify obstacles to the promotion, within the
- 5 toxics user community, of toxics pollution prevention
- 6 techniques and practices by doing all of the
- 7 following:
  - 8 a. Assessing toxics pollution prevention plans
  - 9 developed by toxics users.
  - 10 b. Encouraging regulatory flexibility to afford
  - 11 toxics users the opportunity to develop or employ
  - 12 toxics pollution prevention techniques or practices.
  - 13 c. Performing toxics pollution prevention impact
  - 14 analyses of proposed rules prior to adoption and
  - 15 assisting agencies involved in the regulation of
  - 16 toxics users to formulate standards, rules, and
  - 17 programs based upon the toxics pollution prevention
  - 18 goal of the state.
  - 19 10. Provide a forum for public discussion and
  - 20 deliberation regarding toxic substances and toxics
  - 21 pollution prevention.
  - 22 11. Collect and analyze data relative to toxics
  - 23 substances and pollution prevention and develop
  - 24 methods to measure the progress of toxics pollution
  - 25 prevention techniques.
  - 26 12. Coordinate existing resources and oversee the
  - 27 applications for and disbursement of federal grant
  - 28 moneys to provide consistency in achieving the toxics
  - 29 pollution prevention goal of the state.
  - 30 13. Employ qualified personnel to implement the
  - 31 provisions of the toxics pollution prevention program.
  - 32 Sec. . NEW SECTION. 455B.508 TOXICS POLLUTION
  - 33 PREVENTION COUNCIL ESTABLISHED.
    - 34 1. A toxics pollution prevention council is
    - 35 established consisting of the following members:
      - 36 a. One representative of the center for health
      - 37 effects of environmental contamination at the
      - 38 university of Iowa, appointed by its director.
      - 39 b. One representative of the Iowa waste reduction
      - 40 center at the university of northern Iowa, appointed
      - 41 by its director.
      - 42 c. One representative of the college of
      - 43 engineering at Iowa state university of science and
      - 44 technology, appointed by its president.
      - 45 d. One representative of the environmental
      - 46 protection division of the department of natural
      - 47 resources, appointed by the director.
      - 48 e. One representative of the division of labor of
      - 49 the department of employment services, appointed by
      - 50 the director of the department of employment services.

H-3490

Page 4

1 f. One representative of a labor organization,  
2 appointed by the director.

3 g. One representative of a small business  
4 stationary source as defined pursuant to the federal  
5 Clean Air Act of 1990, section 507, Pub. L. No. 101-  
6 549, appointed by the governor.

7 h. One representative of a major stationary source  
8 as defined pursuant to the federal Clean Air Act of  
9 1990, section 501, Pub. L. No. 101-549, appointed by  
10 the governor.

11 i. Two at-large representatives with expertise in  
12 environmental issues related to toxics pollution  
13 prevention, appointed by the director of the  
14 department.

15 A public member shall not have a conflict of  
16 interest. For the purposes of this section, "conflict  
17 of interest" means an affiliation, within the twelve  
18 months before the member's appointment, with the  
19 affected toxics user community.

20 The members shall serve four-year staggered terms  
21 which shall begin and end as provided in section  
22 69.19, and any vacancy shall be filled by the original  
23 appointing authority.

24 Public members of the council shall receive per  
25 diem as provided pursuant to section 7E.6 and shall be  
26 reimbursed for actual and necessary expenses incurred  
27 in the performance of their official duties.

28 The members appointed as representatives of the  
29 small business stationary source and the major  
30 stationary source shall serve until such time as the  
31 compliance advisory panel, as required pursuant to the  
32 federal Clean Air Act of 1990, section 507, Pub. L.  
33 No. 101-549, is appointed at which time these members  
34 shall be replaced by the members of the general public  
35 appointed by the governor in accordance with the Act  
36 and together with the remainder of the members of the  
37 existing council shall continue to serve as both the  
38 compliance advisory panel and the toxics pollution  
39 prevention council.

40 The council shall meet at least quarterly and on  
41 call of the chairperson. A majority of the council  
42 members constitutes a quorum for conducting official  
43 business. A majority vote of the quorum is required  
44 for passage of any matter of business. The council  
45 shall establish procedures and requirements with  
46 respect to the conducting of council meetings and the  
47 election of a chairperson and other officers.

48 2. The council shall do all of the following:

49 a. Coordinate the toxics pollution prevention  
50 activities throughout the state and assist the

H-3490

Page 5

1 division in implementing the toxics pollution  
2 prevention program.

3 b. For the fiscal year beginning July 1, 1992, and  
4 thereafter, recommend to the commission, and the  
5 commission shall adopt rules which reflect the  
6 recommendations, amendments to the toxic substances  
7 list, required to be submitted pursuant to section  
8 455B.507 by adding or deleting not more than ten  
9 chemicals during any one calendar year.

10 c. Make recommendations to the commission  
11 regarding the adoption of rules to implement a toxics  
12 pollution prevention program.

13 d. Establish an annual toxics pollution prevention  
14 award program to recognize outstanding achievement in  
15 toxics pollution prevention.

16 e. Promote increased coordination between the  
17 divisions of the department and between the department  
18 and other departments, agencies, and institutions with  
19 responsibilities relating to toxic substances to  
20 facilitate joint planning processes, research, public  
21 hearings, hazard assessments, environmental workplace  
22 impact statements, and impact analyses for proposed  
23 rules.

24 f. Develop criteria for the awarding of grants by  
25 the division, subject to approval by the commission,  
26 through allocation of the moneys collected pursuant to  
27 section 455B.509, to ensure consistency with the goal  
28 of the state regarding toxics pollution prevention,  
29 for any of the following:

30 (1) To assist toxics users who file a letter of  
31 intent with the division to develop toxics pollution  
32 prevention plans in the development of such plans.

33 (2) To assist in developing and making available  
34 to workers, training materials for use within a toxics  
35 user facility, which encourage toxics pollution  
36 prevention.

37 (3) To assist in establishing programs or  
38 materials to train and assist toxics user personnel in  
39 developing methods and measures of toxics pollution  
40 prevention.

41 (4) To create technical assistance programs to  
42 supplement the assistance provided by the division.

43 (5) To develop and implement demonstration  
44 projects and research studies in the area of toxics  
45 pollution prevention."

46 4. Page 11, lines 14 and 15 by striking the words  
47 "complete and submit to the department" and inserting  
48 the following: "be encouraged to develop".

49 5. Page 11, by striking lines 17 and 18 and  
50 inserting the following: "section."

H-3490

Page 6

- 1 6. Page 11, by striking lines 29 through 34 and  
2 inserting the following:  
3 "b. The identification and quantities of toxic  
4 substances used and released. The estimates shall be  
5 provided for the total toxics used and released for  
6 each production process, line, method, activity, or  
7 technique, or combination of these, used to produce a  
8 product."  
9 7. Page 12, lines 11 and 12, by striking the  
10 words "or hazardous waste generated".  
11 8. Page 12, line 20 by inserting after the word  
12 "force." the following: "The analysis shall also  
13 include an assessment of the technical and economic  
14 feasibility of implementing each pollution prevention  
15 technique."  
16 9. Page 12, line 29, by striking the word  
17 "required" and inserting the following: "developed".  
18 10. Page 12, line 33, by striking the word  
19 "bureau" and inserting the following: "authority".  
20 11. Page 13, by striking lines 3 through 5 and  
21 inserting the following: "section shall be reviewed  
22 by the authority. The authority shall review the  
23 plans for".  
24 12. By striking page 13, line 10 through page 14,  
25 line 13.  
26 13. Page 15, lines 14 and 15, by striking the  
27 words "approved by the toxics pollution prevention  
28 council" and inserting the following: "and loans  
29 approved by the authority".  
30 14. Page 17, by inserting after line 23, the  
31 following:  
32 "Sec. \_\_\_\_ . NEW SECTION. 455B.133C SMALL BUSINESS  
33 STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL  
34 COMPLIANCE ASSISTANCE PROGRAM ESTABLISHED.  
35 A small business stationary source technical and  
36 environmental compliance assistance program is  
37 established at the university of northern Iowa at such  
38 time as required pursuant to the federal Clean Air Act  
39 of 1990, section 507, Pub. L. No. 101-549. The  
40 program shall include all elements required by the Act  
41 and the toxics pollution prevention panel created  
42 pursuant to section 455B.508 shall act as the advisory  
43 panel to the program."  
44 15. By renumbering, relettering, and correcting  
45 internal references as necessary.

By HATCH of Polk

H-3490 FILED APRIL 3, 1991

o/c 4/24/91

*3302 amendments*

## HOUSE FILE 683

H-3797

1 Amend House File 683 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. FINDINGS. The general assembly finds:

5 1. That the state annually produces millions of  
6 pounds of pollution and expends millions of dollars  
7 controlling this pollution.

8 2. That there are significant opportunities for  
9 industry to reduce or prevent pollution at the source  
10 through cost-effective changes in production,  
11 operation, and raw material use. These changes would  
12 afford industry substantial savings in raw materials,  
13 pollution control, and liability costs and would also  
14 reduce environmental harm and risks to worker health  
15 and safety.

16 3. That the opportunities for pollution prevention  
17 are often not realized, due to a focus upon treatment  
18 and disposal rather than pollution prevention, the  
19 lack of an emphasis on a multimedia management  
20 approach to pollution prevention, and the lack of  
21 necessary information and technical assistance  
22 available to businesses in adopting pollution  
23 prevention practices.

24 4. That pollution prevention is fundamentally  
25 different from and should be encouraged in preference  
26 to waste management or pollution control and that the  
27 state should address the lack of attention to  
28 pollution prevention.

29 Sec. 2. POLLUTION PREVENTION GOAL AND POLICY. The  
30 goal of the state is to encourage pollution prevention  
31 through the use of pollution prevention techniques in  
32 preference to waste management or pollution control,  
33 and through coordination and cooperation between  
34 federal, state, and local departments, agencies, and  
35 institutions in the development and administration of  
36 a pollution prevention program.

37 Sec. 3. NEW SECTION. 455B.502 DEFINITIONS.

38 As used in this part, unless the context otherwise  
39 requires:

40 1. "Authority" means the waste management  
41 authority created pursuant to section 455B.483.

42 2. "Commission" means the environmental protection  
43 commission established pursuant to section 455A.6.

44 3. "Department" means the department of natural  
45 resources created pursuant to section 455A.2.

46 4. "Emergency Planning and Community Right-to-know  
47 Act" or "EPCRA" means the federal Emergency Planning  
48 and Community Right-to-know Act as defined in section  
49 30.1.

50 5. "Environmental waste" means a pollutant, waste,

H-3797

Page 2

1 or release regardless of the type or existence of  
2 regulation and regardless of the media affected by the  
3 pollutant, waste, or release.

4 6. "Existing toxics user" means a toxics user  
5 installation or source constructed prior to July 1,  
6 1991.

7 7. "Multimedia" means any combination of air,  
8 water, land, or workplace environments into which  
9 toxic substances or wastes are released.

10 8. "Release" means emission, discharge, or  
11 disposal into any environmental media including air,  
12 water, or land.

13 9. "Toxics pollution prevention" means employment  
14 of a practice which reduces the industrial use of  
15 toxic substances or reduces the environmental and  
16 health hazards associated with an environmental waste  
17 without diluting or concentrating the waste before the  
18 release, handling, storage, transport, treatment, or  
19 disposal of the waste. The term includes toxics  
20 pollution prevention techniques but does not include a  
21 practice which is applied to an environmental waste  
22 after the waste is generated or comes into existence  
23 on or after the waste exits a production or commercial  
24 operation.

25 "Toxics pollution prevention" does not include,  
26 promote, or require any of the following:

27 a. Waste burning in industrial furnaces, boilers,  
28 smelters, or cement kilns for the purpose of energy  
29 recovery.

30 b. The transfer of an environmental waste from one  
31 environmental medium to another environmental medium,  
32 the workplace environment, or a product.

33 c. Offsite waste recycling.

34 d. Any other method of end-of-pipe management of  
35 environmental wastes including waste exchange and the  
36 incorporation or embedding of regulated environmental  
37 wastes into products or by-products.

38 10. "Toxics pollution prevention techniques" means  
39 any of the following practices by a toxics user:

40 a. Input substitution, which refers to replacing a  
41 toxic substance or raw material used in a production  
42 process with a nontoxic or less toxic substance.

43 b. Product reformulation, which refers to  
44 substituting for an existing end product an end  
45 product which is nontoxic or less toxic upon use or  
46 release.

47 c. Production process redesign or modification,  
48 which refers to developing and using production  
49 processes of a different design other than those  
50 currently in use.



H-3797

Page 3

1 d. Production process modernization, which refers  
2 to upgrading or replacing existing production process  
3 equipment or methods with other equipment or methods  
4 based on the same production process.

5 e. Improved operation and maintenance of existing  
6 production process equipment and methods, which refers  
7 to modifying or adding to existing equipment or  
8 methods, including but not limited to, such techniques  
9 as improved housekeeping practices, system  
10 adjustments, product and process inspections, and  
11 production process control equipment or methods.

12 f. Recycling, reuse, or extended use of toxic  
13 substances by using equipment or methods which become  
14 an integral part of the production process.

15 11. "Toxic substance" means any chemical substance  
16 in a gaseous, liquid, or solid state which is  
17 identified as a reportable substance under the federal  
18 Resource Conservation and Recovery Act, EPCRA, or  
19 defined as a hazardous air pollutant under the Clean  
20 Air Act of 1990. However, "toxic substance" does not  
21 include a chemical substance present in the article;  
22 used as a structural component of a facility; present  
23 in a product used for routine janitorial or facility  
24 grounds maintenance; present in foods, drugs,  
25 cosmetics, or other personal items used by employees  
26 or other persons at a toxics user facility; present in  
27 process water or noncontact cooling water as drawn  
28 from the environment or from municipal sources;  
29 present in air used either as compressed air or as  
30 part of combustion; present in a pesticide or  
31 herbicide when used in agricultural applications; or  
32 present in crude, fuel, or lube oils for direct  
33 wholesale or retail sale.

34 12. "Toxics" means toxic substances.

35 13. "Toxics user" means a large quantity generator  
36 as defined pursuant to the federal Resource  
37 Conservation and Recovery Act, 42 U.S.C. § 6901 et  
38 seq. or a person required to report pursuant to Title  
39 III of the federal Superfund Amendments and  
40 Reauthorization Act of 1986.

41 14. "Waste exchange" means a method of end-of-pipe  
42 management of environmental wastes that involves the  
43 transfer of environmental wastes between businesses or  
44 facilities owned or operated by the same business for  
45 recovery or to serve a productive purpose.

46 Sec. 4. NEW SECTION. 455B.503 DUTIES OF THE  
47 DEPARTMENT.

48 The department shall do all of the following:

49 1. Identify all department and other state agency  
50 requirements relating to the reporting of the use or

H-3797

Page 4

1 release of toxic substances, and to the greatest  
2 extent possible, standardize, consolidate, and  
3 coordinate reporting requirements to minimize  
4 unnecessary duplication.

5 2. To the extent practicable, coordinate and  
6 compile information regarding the release or use of  
7 toxic substances in order to provide access to this  
8 information to toxics users and to facilitate the  
9 enforcement of provisions of this part relating to  
10 toxic substances.

11 3. Require that persons required to report toxic  
12 release data pursuant to EPCRA, the federal Resource  
13 Conservation and Recovery Act, or the federal Clean  
14 Air Act of 1990 submit a copy of the required report  
15 to the authority.

16 4. Develop and implement guidelines regarding  
17 assistance to toxics users to ensure that, where  
18 appropriate, the plans are multimedia in approach and  
19 are not duplicated by the department or other agencies  
20 of the state.

21 5. Identify obstacles to the promotion, within the  
22 toxics user community, of toxics pollution prevention  
23 techniques and practices.

24 Sec. 5. NEW SECTION. 455B.504 DUTIES OF THE  
25 AUTHORITY.

26 The waste management authority shall do all of the  
27 following:

28 1. Establish the criteria for the development of  
29 the toxics pollution prevention program.

30 2. Develop and implement a toxics pollution  
31 prevention program.

32 3. Assist toxics users in the completion of toxics  
33 pollution prevention plans and inventories, and  
34 provide technical assistance as requested by the  
35 toxics user.

36 4. a. Seek, receive, and accept funds in the form  
37 of appropriations, grants, awards, wills, bequests,  
38 endowments, and gifts for the uses designated pursuant  
39 to section 455B.133B. The authority shall also  
40 coordinate existing resources and oversee the  
41 disbursement of federal grant moneys to provide  
42 consistency in achieving the toxics pollution  
43 prevention goal of the state.

44 b. Provide, through the use of moneys collected  
45 pursuant to section 455B.133A, the state matching  
46 funds for grants under the federal Pollution  
47 Prevention Act of 1990, Pub. L. No. 101-508, § 6604  
48 and 6605.

49 5. Award grants, from the moneys collected  
50 pursuant to section 455B.133A, to support and sustain

H-3797

Page 5

1 toxics pollution prevention and education efforts  
2 including efforts which provide for prevention through  
3 reduction in the use of toxics in production and  
4 commerce, and which may include any of the following:

5 a. Grants to toxics users who submit a letter of  
6 intent to the division to develop toxics pollution  
7 prevention plans.

8 b. Grants to establish technical assistance  
9 programs to supplement the activities of the  
10 department and the division.

11 c. Grants to assist in developing and making  
12 available to toxics users and employees of toxics  
13 users, training materials which promote toxics  
14 pollution prevention within a toxics user's facility.

15 d. Grants to assist in establishing programs or  
16 materials to train and assist industry personnel in  
17 developing methods to measure the effects of and plan  
18 for toxics pollution prevention.

19 e. Grants to assist in creating programs to train  
20 and certify environmental auditors, engineers, and  
21 industrial hygienists to identify, evaluate, and  
22 implement toxics pollution prevention measures and  
23 alternatives to performance of audits, plans, and  
24 programs.

25 f. Grants to organizations for research and  
26 development, pilot tests, and demonstration projects  
27 that involve commonly used industrial or commercial  
28 processes or materials and which will produce results  
29 useful to businesses other than those involved in the  
30 research and development, pilot tests, or  
31 demonstration projects.

32 The division may require the provision of matching  
33 funds for a grant awarded under this subsection.  
34 Grant moneys awarded under this subsection shall not  
35 be used for capital improvements or equipment.  
36 Preference in the awarding of grants under this  
37 subsection shall be given for the purposes designated  
38 under paragraphs "c", "d", and "e" to toxics users who  
39 submit letters of intent to develop toxics pollution  
40 prevention plans.

41 Sec. 6. NEW SECTION. 455B.505 TOXICS POLLUTION  
42 PREVENTION CLEARINGHOUSE ESTABLISHED.

43 1. The authority and the Iowa waste reduction  
44 center at the university of northern Iowa shall  
45 establish a toxics pollution prevention clearinghouse  
46 at the university of northern Iowa.

47 2. The clearinghouse shall do all of the  
48 following:

49 a. Function as a repository of research, data, and  
50 information regarding toxics pollution prevention

H-3797

Page 6

1 activities throughout the state.

2 b. Submit an annual report to the governor and the  
3 general assembly which includes policy recommendations  
4 regarding toxics pollution prevention and a review of  
5 projects regarding the achievement and promotion of  
6 toxics pollution prevention techniques.

7 c. Provide a forum for public discussion and  
8 deliberation regarding toxic substances and toxics  
9 pollution prevention.

10 d. Promote increased coordination between the  
11 department, the Iowa waste reduction center at the  
12 university of northern Iowa, and other departments,  
13 agencies, and institutions with nonregulatory  
14 responsibilities relating to toxic substances.

15 e. Coordinate state efforts with those of the  
16 federal source reduction clearinghouse established  
17 pursuant to the federal Pollution Prevention Act of  
18 1990, Pub. L. No. 101-508, § 6606 and shall make data  
19 collected available to the federal resource reduction  
20 clearinghouse and disseminate data available from the  
21 federal clearinghouse.

22 Sec. 7. NEW SECTION. 455B.506 TOXICS POLLUTION  
23 PREVENTION PLANS.

24 1. A toxics user required to report under section  
25 313 of EPCRA, 42 U.S.C. § 11023, or a large quantity  
26 generator, as defined pursuant to the federal Resource  
27 Conservation and Recovery Act, 42 U.S.C. § 6901 et  
28 seq., shall be encouraged to develop a facility-wide  
29 multimedia toxics pollution prevention plan, as  
30 described pursuant to this section.

31 2. The authority shall adopt criteria for the  
32 information required in a multimedia toxics pollution  
33 prevention plan. To the extent possible, the plans  
34 shall coordinate reporting requirements in order to  
35 minimize unnecessary duplication. The plans shall  
36 include, but are not limited to, all of the following:

37 a. A policy statement which articulates upper  
38 management and corporate support for the toxics  
39 pollution prevention plan and its implementation.

40 b. The identification and quantities of toxic  
41 substances used and released. The estimates shall be  
42 provided for the total toxics used and released for  
43 each production process, line, method, activity, or  
44 technique, or combination of these, used to produce a  
45 product.

46 c. An assessment of the applicability, for each  
47 production process, line, method, activity, or  
48 technique, or a combination of these, in which a toxic  
49 substance is used, of each of the approaches  
50 designated as toxics pollution prevention techniques

H-3797

Page 7

1 including input substitution; product reformulation;  
2 production process redesign or modification;  
3 production process modernization; improved operation  
4 and maintenance of existing production process  
5 equipment and methods; and recycling, reuse, or  
6 extended use of toxic substances.

7 d. A description of current and previous  
8 techniques used to reduce or eliminate toxics used or  
9 released.

10 e. An economic analysis of the proposed toxics  
11 pollution prevention plan. The economic analysis  
12 shall also include an evaluation of the impact upon  
13 the toxics user's existing labor force by division or  
14 department, and the projected impact upon future  
15 expansion of the toxics user's labor force.

16 f. A clear statement listing specific reduction  
17 objectives.

18 g. A method for employees of a toxics user to  
19 provide input and to be involved in the development of  
20 the plans. If the employees are represented by a  
21 labor union, organization, or association, a  
22 representative of the union, organization, or  
23 association shall be included in the development of  
24 the plans.

25 3. The plans developed under this section shall  
26 not promote the use of pollution control or waste  
27 management approaches that address waste or pollution  
28 after the creation of the waste or pollution.

29 4. A toxics pollution prevention plan developed  
30 under this section shall be reviewed by the authority  
31 for completeness, adequacy, and accuracy.

32 5. A toxics user shall maintain a copy of the plan  
33 on the premises, and shall submit a summary of the  
34 plan to the department.

35 Sec. 8. Section 30.7, Code 1991, is amended by  
36 adding the following new subsection:

37 NEW SUBSECTION. 5. The department of employment  
38 services shall compile data or information from the  
39 emergency and hazardous chemical inventory forms  
40 required to be submitted to the commission under  
41 section 312 of the Emergency Planning and Community  
42 Right-to-know Act, 42 U.S.C. § 11022, by county, and  
43 shall make the compiled reports available, annually,  
44 to each county in the state by providing the report to  
45 at least one public library in the named county.

46 Sec. 9. Section 30.8, Code 1991, is amended by  
47 adding the following new subsection:

48 NEW SUBSECTION. 4. The department of natural  
49 resources shall compile the data collected pursuant to  
50 section 313 of the Emergency Planning and Community

H-3797

Page 8

1 Right-to-know Act, 42 U.S.C. § 11023, and shall make  
2 the compiled data available to the public upon  
3 request.

4 Sec. 10. Section 455B.133, Code 1991, is amended  
5 by adding the following new subsection:

6 NEW SUBSECTION. 8. Adopt rules consistent with  
7 the federal Clean Air Act of 1990, Pub. L. No. 101-  
8 549, which require the owner or operator of an air  
9 contaminant source to obtain an operating permit prior  
10 to operation of the source. The rules shall specify  
11 the information required to be submitted with the  
12 application for a permit and the conditions under  
13 which a permit may be granted, modified, suspended,  
14 terminated, revoked, reissued, or denied. The  
15 commission may impose fees, including fees upon  
16 regulated pollutants emitted from an air contaminant  
17 source, in an amount sufficient to cover all  
18 reasonable costs, direct and indirect, required to  
19 develop and administer the permit program in  
20 conformance with the federal Clean Air Act of 1990,  
21 Pub. L. No. 101-549. In the case of affected sources  
22 and affected units regulated under Title IV of the  
23 federal Clean Air Act of 1990, Pub. L. No. 101-549,  
24 such fees shall be collected only as provided in and  
25 upon submission of an application pursuant to section  
26 408 of the federal Act. The fees collected pursuant  
27 to this subsection shall be deposited in the air  
28 contaminant source fund created pursuant to section  
29 455B.133B, and shall be utilized solely to cover all  
30 reasonable costs required to develop and administer  
31 the programs required by Title V of the federal Clean  
32 Air Act of 1990, Pub. L. No. 101-549, including the  
33 permit program pursuant to section 502 of the federal  
34 Act and the small business stationary source technical  
35 and environmental assistance program pursuant to  
36 section 507 of the federal Act.

37 Sec. 11. NEW SECTION. 455B.133A TEMPORARY AIR  
38 TOXICS FEE IMPOSED.

39 1. Beginning July 1, 1991, and continuing until  
40 such time as the air contaminant source fee is  
41 established by rule of the commission, an annual fee  
42 of twenty-five dollars per ton of hazardous air  
43 pollutant emissions shall be paid based upon the  
44 following:

45 a. A source which emits hazardous air pollutants  
46 included in Title III of the federal Clean Air Act of  
47 1990 shall pay the established fee based upon air  
48 emissions of such pollutants reported by the source to  
49 the United States environmental protection agency in  
50 the previous calendar year.

H-3797

Page 9

1 b. A source required to report hazardous air  
2 pollutant emissions under section 313 of EPCRA shall  
3 pay the established fee based upon the most recently  
4 reported emissions.

5 c. A source which emits hazardous air pollutants  
6 which are included in Title III of the federal Clean  
7 Air Act of 1990, which are not also included in  
8 section 313 of EPCRA, shall pay the established fee  
9 based upon the source's estimates as required by  
10 section 313 of EPCRA including threshold  
11 determinations and de minimus exclusions.

12 2. Moneys collected shall be deposited in the air  
13 contaminant source fund created pursuant to section  
14 455B.133B. Notwithstanding section 8.33, any  
15 unexpended balance remaining in the fund, which was  
16 generated pursuant to this section, shall remain in  
17 the fund for the purposes designated under section  
18 455B.133, subsection 8. Notwithstanding section  
19 453.7, any interest and earnings on investments from  
20 moneys in the fund shall be used for the purposes of  
21 the fund.

22 Sec. 12. NEW SECTION. 455B.133B AIR CONTAMINANT  
23 SOURCE FUND CREATED.

24 1. An air contaminant source fund is created in  
25 the office of the treasurer of state under the control  
26 of the department. Moneys received from the fees  
27 assessed pursuant to sections 455B.133A and 455B.133,  
28 subsection 8, shall be deposited in the fund. Moneys  
29 collected pursuant to section 455B.133, subsection 8,  
30 shall be used solely to defray the costs related to  
31 the permit, monitoring, and inspection program,  
32 including the small business stationary source  
33 technical and environmental compliance assistance  
34 program required pursuant to the federal Clean Air Act  
35 of 1990, sections 502 and 507, Pub. L. No. 101-549.  
36 Notwithstanding section 8.33, any unexpended balance  
37 in the fund at the end of each fiscal year shall be  
38 retained in the fund. Notwithstanding section 453.7,  
39 any interest and earnings on investments from money in  
40 the fund shall be credited to the fund.

41 2. Moneys collected pursuant to section 455B.133A  
42 shall be used by the department for the following:

43 a. To prepare, submit, and obtain approval of the  
44 permit program plan required by section 502(d) of the  
45 federal Clean Air Act of 1990.

46 b. To provide funding for grants approved by the  
47 authority pursuant to section 455B.504, subsection 5,  
48 and to provide technical and other assistance to  
49 toxics users, relating to toxics pollution prevention.

50 Sec. 13. Section 455B.134, subsection 3,

H-3797

Page 10

1 unnumbered paragraph 1, Code 1991, is amended to read  
2 as follows:

3 Grant, modify, suspend, terminate, revoke, reissue  
4 or deny permits for the construction or operation of  
5 new, or modified, or existing air contaminant sources  
6 and for related control equipment, and conditional  
7 permits for electric power generating facilities  
8 subject to chapter 476A and other major stationary  
9 sources, subject to the rules adopted by the  
10 commission. The department shall furnish necessary  
11 application forms for such permits.

12 Sec. 14. Section 455B.134, subsection 3, Code  
13 1991, is amended by adding the following new paragraph  
14 e, and relettering the subsequent paragraph:

15 NEW PARAGRAPH. e. A regulated air contaminant  
16 source for which a construction permit or conditional  
17 permit has been issued shall not be operated unless an  
18 operating permit also has been issued for the source.  
19 However, if the facility was in compliance with permit  
20 conditions prior to the requirement for an operating  
21 permit and has made timely application for an  
22 operating permit, the facility may continue operation  
23 until the operating permit is issued.

24 Sec. 15. Section 455B.134, subsection 9, Code  
25 1991, is amended to read as follows:

26 9. Issue orders consistent with rules to cause the  
27 abatement or control of air pollution, or to secure  
28 compliance with permit conditions. In making the  
29 orders, the director shall consider the facts and  
30 circumstances bearing upon the reasonableness of the  
31 emissions involved, including but not limited to, the  
32 character and degree of injury to, or interference  
33 with, the protection of health and the physical  
34 property of the public, the practicability of reducing  
35 or limiting the emissions from the air pollution  
36 source, and the suitability or unsuitability of the  
37 air pollution source to the area where it is located.  
38 An order may include advisory recommendations for the  
39 control of emissions from an air contaminant source  
40 and the reduction of the emission of air contaminants.

41 Sec. 16. Section 455B.141, Code 1991, is amended  
42 to read as follows:

43 455B.141 LEGAL ACTION.

44 If action to prevent, control, or abate air  
45 pollution is not taken in accordance with the rules  
46 established, or orders or permits issued by the  
47 department, or if the director has evidence that an  
48 emergency exists by reason of air pollution which  
49 requires immediate action to protect the public health  
50 or property, the attorney general, at the request of



1 the director, shall commence legal action, in the name  
 2 of the state, for an injunction to prevent any further  
 3 or continued violation of such rule or order.  
 4 Sec. 17. CODIFICATION. The Code editor shall  
 5 codify sections 455B.502 through 455B.506, as enacted  
 6 in this Act, as a new part of division 71 of chapter  
 7 455B."

8 2. Title page, by striking lines 2 through 4 and  
 9 inserting the following: "prevention program and  
 10 establishing fees."

By HATCH of Polk

CHAPMAN of Linn

PETERSON of Carroll

NEUHAUSER of Johnson

DVORSKY of Johnson

H-3797 FILED APRIL 24, 1991

ADOPTED (p. 1792)

HOUSE FILE 683

-H-3509

1 Amend House File 683 as follows:

2 1. Page 12, line 20, by inserting after the word  
 3 "force." the following: "If the projected impact will  
 4 result in a reduction of the labor force by two  
 5 percent or more, the employees of the toxics user  
 6 shall vote to approve or reject the toxics pollution  
 7 prevention plan. If a majority of the employees vote  
 8 to reject the plan, the toxics user shall reformulate  
 9 the plan to reduce the impact on the labor force to a  
 10 reduction level of less than two percent."

By GRUBBS of Scott

H-3509 FILED APRIL 4, 1991

*Placed o/o 4/24*

HOUSE FILE 683

H-3510

1 Amend amendment, H-3490, to House File 683 as  
 2 follows:

3 1. Page 6, line 15, by inserting after the word  
 4 "technique." the following: "If the projected impact  
 5 will result in a reduction of the labor force by two  
 6 percent or more, the employees of the toxics user  
 7 shall vote to approve or reject the toxics pollution  
 8 prevention plan. If a majority of the employees vote  
 9 to reject the plan, the toxics user shall reformulate  
 10 the plan to reduce the impact on the labor force to a  
 11 reduction level of less than two percent."

By GRUBBS of Scott

H-3510 FILED APRIL 4, 1991

*Placed o/o 4/24*

HOUSE FILE 683

H-3532

1 Amend House File 683 as follows:

2 1. Page 14, line 35, by inserting after the  
 3 figure "1992." the following: "The initial fees paid  
 4 shall be based upon the federal reports submitted in  
 5 the year 1988 and subsequent fee payments shall be  
 6 based upon the federal reports submitted in the  
 7 previous reporting year."

8 2. Page 16, line 31, by striking the word "and"  
 9 and inserting the following: "or".

By HATCH of Polk

H-3532 FILED APRIL 8, 1991

*o/o 4/24*

## HOUSE FILE 683

H-3802

1 Amend the amendment, H-3797, to House File 683 as  
2 follows:

3 1. By striking page 1, line 4, through page 11,  
4 line 10, and inserting the following:

5 "Section 1. Section 455B.133, Code 1991, is  
6 amended by adding the following new subsection:

7 NEW SUBSECTION. 8. Adopt rules which require the  
8 owner or operator of an air contaminant source to  
9 obtain an operating permit prior to operation of the  
10 source. The rules shall specify the information  
11 required to be submitted with the application for a  
12 permit and the conditions under which a permit may be  
13 issued, suspended, modified, revoked, or renewed.

14 Sec. 2. NEW SECTION. 455B.133A AIR CONTAMINANT  
15 SOURCE OPERATING PERMIT FEE IMPOSED.

16 The department, pursuant to the federal Clean Air  
17 Act of 1990, section 502, Pub. L. No. 101-549, shall  
18 collect an air contaminant source fee in an amount  
19 sufficient to cover all of the reasonable costs of the  
20 permit, monitoring, and inspection program including  
21 the development and implementation of the small  
22 business stationary source technical and environmental  
23 compliance assistance program required pursuant to the  
24 federal Clean Air Act of 1990, section 507, Pub. L.  
25 No. 101-549. In the case of affected sources and  
26 affected units under Title IV of the federal Clean Air  
27 Act of 1990, the fee shall be collected only upon the  
28 submission of an application pursuant to section 408  
29 of the federal Clean Air Act. The moneys collected  
30 shall be deposited in the air contaminant source fund  
31 and shall be used solely for the costs of the permit,  
32 monitoring, and inspection program including the small  
33 business stationary source technical and environmental  
34 compliance assistance program.

35 Sec. 3. NEW SECTION. 455B.133B TEMPORARY AIR  
36 TOXICS FEE IMPOSED.

37 Beginning July 1, 1991, and thereafter until such  
38 time as the permit fee for regulated pollutants is  
39 established by rule of the commission, an annual fee  
40 of twenty-five dollars per ton for the hazardous air  
41 pollutants included in Title III of the federal Clean  
42 Air Act of 1990 shall be paid by the affected sources.  
43 The moneys collected shall be deposited in the air  
44 contaminant source fund and shall be used solely for  
45 the costs of establishing the operating permit  
46 issuance program under the federal Clean Air Act of  
47 1990. The fee shall be based upon the air emissions  
48 of such pollutants reported by the source in the  
49 previous calendar year. A person required to report  
50 hazardous air pollutant emissions under section 313 of

H-3802

Page 2

1 EPCRA shall pay the established fee based upon the  
2 most recently reported emissions. A person shall pay  
3 the established fee for hazardous air pollutants which  
4 are not included in section 313 of EPCRA, but which  
5 are included in Title III of the Clean Air Act of  
6 1990, based upon the facility's estimates as required  
7 by section 313 of EPCRA including threshold  
8 determinations and de minimus exclusions.

9 Sec. 4. NEW SECTION. 455B.133C AIR CONTAMINANT  
10 SOURCE FUND CREATED.

11 1. An air contaminant source fund is created in  
12 the office of the treasurer of state under the control  
13 of the department. Moneys received from the fees  
14 assessed pursuant to sections 455B.133A and 455B.133B  
15 shall be deposited in the fund and are appropriated  
16 and shall be used solely to defray the costs related  
17 to the permit, monitoring, and inspection program,  
18 including the small business stationary source  
19 technical and environmental compliance assistance  
20 program required pursuant to the federal Clean Air Act  
21 of 1990, sections 502 and 507, Pub. L. No. 101-549.  
22 Notwithstanding section 8.33, any unexpended balance  
23 in the fund at the end of each fiscal year shall be  
24 retained in the fund. Notwithstanding section 453.7,  
25 any interest and earnings on investments from money in  
26 the fund shall be credited to the fund.

27 Sec. 5. Section 455B.134, Code 1991, is amended by  
28 adding the following new subsection:

29 NEW SUBSECTION. 14. Provide technical assistance  
30 to toxics users for the purpose of preparing source  
31 reduction reports required pursuant to the federal  
32 Pollution Prevention Act of 1990, Pub. L. No. 101-508,  
33 section 6607.

34 Sec. 6. Section 455B.134, subsection 3, unnumbered  
35 paragraph 1, Code 1991, is amended to read as follows:

36 Grant, modify, or deny permits for the construction  
37 or operation of new, or modified, or existing air  
38 contaminant sources and for related control equipment,  
39 and conditional permits for electric power generating  
40 facilities subject to chapter 476A and other major  
41 stationary sources, subject to the rules adopted by  
42 the commission. The department shall furnish  
43 necessary application forms for such permits.

44 Sec. 7. Section 455B.134, subsection 3, Code 1991,  
45 is amended by adding the following new paragraph e,  
46 and relettering the subsequent paragraph:

47 NEW PARAGRAPH. e. A regulated air contaminant  
48 source for which a construction permit or conditional  
49 permit has been issued shall not be operated unless an  
50 operating permit also has been issued for the source.

H-3802

Page 3

1 However, if the facility was in compliance with permit  
2 conditions prior to the requirement for an operating  
3 permit and has made timely application for an  
4 operating permit, the facility may continue operation  
5 until the operating permit is issued or denied.  
6 Operating permits shall contain conditions and  
7 schedules of compliance necessary to ensure that the  
8 air contaminant source will meet all applicable  
9 standards. Established deadlines for submission of an  
10 operating permit shall match the federal mandates for  
11 regulated pollutants. If construction of a new air  
12 contaminant source is proposed, an operating permit  
13 shall be issued concurrently with the construction  
14 permit for the source whenever possible and  
15 appropriate.

16 Sec. 8. Section 455B.134, subsection 9, Code 1991,  
17 is amended to read as follows:

18 9. Issue orders consistent with rules to cause the  
19 abatement or control of air pollution, or to secure  
20 compliance with permit conditions. In making the  
21 orders, the director shall consider the facts and  
22 circumstances bearing upon the reasonableness of the  
23 emissions involved, including but not limited to, the  
24 character and degree of injury to, or interference  
25 with, the protection of health and the physical  
26 property of the public, the practicability of reducing  
27 or limiting the emissions from the air pollution  
28 source, and the suitability or unsuitability of the  
29 air pollution source to the area where it is located.  
30 An order may include advisory recommendations for the  
31 control of emissions from an air contaminant source  
32 and the reduction of the emission of air contaminants.

33 Sec. 9. Section 455B.141, Code 1991, is amended to  
34 read as follows:

35 455B.141 LEGAL ACTION.

36 If action to prevent, control, or abate air  
37 pollution is not taken in accordance with the rules  
38 established, or orders or permits issued by the  
39 department, or if the director has evidence that an  
40 emergency exists by reason of air pollution which  
41 requires immediate action to protect the public health  
42 or property, the attorney general, at the request of  
43 the director, shall commence legal action, in the name  
44 of the state, for an injunction to prevent any further  
45 or continued violation of such rule or order."

46 2. Title page, by striking lines 1 through 4, and  
47 inserting the following: "An Act relating to toxic  
48 substances including the imposing of air toxics fees."

By BANKS of Plymouth

LUNDBY of Linn

GRUBBS of Scott

CORBETT of Linn

H-3802 FILED APRIL 24, 1991

LOST (p 1497)

HOUSE FILE 683

H-3799

1 Amend amendment, H-3797, to House File 683 as  
 2 follows:  
 3 1. Page 8, by inserting after line 3 the  
 4 following:  
 5 "Sec. \_\_\_\_ . Section 455B.133, subsection 4,  
 6 unnumbered paragraph 1, Code 1991, is amended to read  
 7 as follows:  
 8 Adopt, amend or repeal emission limitations or  
 9 standards relating to the maximum quantities of air  
 10 contaminants that may be emitted from any air  
 11 contaminant source. The standards or limitations  
 12 adopted under this section ~~shall not~~ may exceed the  
 13 standards or limitations promulgated by the  
 14 administrator of the United States environmental  
 15 protection agency or the requirements of the federal  
 16 Clean Air Act as amended to January 1, ~~1979~~ 1991.  
 17 This does not prohibit the commission from adopting a  
 18 standard for a source or class of sources for which  
 19 the United States environmental protection agency has  
 20 not promulgated a standard."

21 2. By renumbering as necessary.  
 By JESSE of Jasper HANSON of Delaware  
 BROWN of Lucas OSTERBERG of Linn  
 McKEAN of Jones BERNAU of Story

H-3799 FILED APRIL 24, 1991  
 WITHDRAWN (p. 1444)

HOUSE FILE 683

H-3798

1 Amend amendment, H-3797, to House File 683 as  
 2 follows:  
 3 1. Page 7, line 15, by inserting after the word  
 4 "force." the following: "If the projected impact will  
 5 result in a reduction of the labor force by two  
 6 percent or more, the employees of the toxics user  
 7 shall vote to approve or reject the toxics pollution  
 8 prevention plan. If a majority of the employees vote  
 9 to reject the plan, the toxics user shall reformulate  
 10 the plan to reduce the impact on the labor force to a  
 11 reduction level of less than two percent."

By GRUBBS of Scott

H-3798 FILED APRIL 24, 1991  
 LOST (p. 1443)

*See Enrolled Amend (2691) & Co. Res. 5/2/91 (p. 1628)  
Dwyer Motion Amend (3107) & Co. Res. 5/3/91 (p. 1654)*

HOUSE FILE 683

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 169  
and HF 466)

(As Amended and Passed by the House April 24, 1991)

*as amended  
by Senate*  
Be Passed House, <sup>as amended</sup> Date 5/9/91 (p. 2202) Passed Senate, Date 5/6/91 (p. 1689)  
Vote: Ayes 66 Nays 28 Vote: Ayes 49 Nays 0  
Approved June 10, 1991

**A BILL FOR**

1 An Act relating to the establishment of a toxics pollution  
2 prevention program and establishing fees.

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

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All New Language by the House

1 Section 1. FINDINGS. The general assembly finds:

2 1. That the state annually produces millions of pounds of  
3 pollution and expends millions of dollars controlling this  
4 pollution.

5 2. That there are significant opportunities for industry  
6 to reduce or prevent pollution at the source through cost-  
7 effective changes in production, operation, and raw material  
8 use. These changes would afford industry substantial savings  
9 in raw materials, pollution control, and liability costs and  
10 would also reduce environmental harm and risks to worker  
11 health and safety.

12 3. That the opportunities for pollution prevention are  
13 often not realized, due to a focus upon treatment and disposal  
14 rather than pollution prevention, the lack of an emphasis on a  
15 multimedia management approach to pollution prevention, and  
16 the lack of necessary information and technical assistance  
17 available to businesses in adopting pollution prevention  
18 practices.

19 4. That pollution prevention is fundamentally different  
20 from and should be encouraged in preference to waste  
21 management or pollution control and that the state should  
22 address the lack of attention to pollution prevention.

23 Sec. 2. POLLUTION PREVENTION GOAL AND POLICY. The goal of  
24 the state is to encourage pollution prevention through the use  
25 of pollution prevention techniques in preference to waste  
26 management or pollution control, and through coordination and  
27 cooperation between federal, state, and local departments,  
28 agencies, and institutions in the development and  
29 administration of a pollution prevention program.

30 Sec. 3. NEW SECTION. 455B.502 DEFINITIONS.

31 As used in this part, unless the context otherwise  
32 requires:

33 1. "Authority" means the waste management authority  
34 created pursuant to section 455B.483.

35 2. "Commission" means the environmental protection

- 1 commission established pursuant to section 455A.6.
- 2 3. "Department" means the department of natural resources  
3 created pursuant to section 455A.2.
- 4 4. "Emergency Planning and Community Right-to-know Act" or  
5 "EPCRA" means the federal Emergency Planning and Community  
6 Right-to-know Act as defined in section 30.1.
- 7 5. "Environmental waste" means a pollutant, waste, or  
8 release regardless of the type or existence of regulation and  
9 regardless of the media affected by the pollutant, waste, or  
10 release.
- 11 6. "Existing toxics user" means a toxics user installation  
12 or source constructed prior to July 1, 1991.
- 13 7. "Multimedia" means any combination of air, water, land,  
14 or workplace environments into which toxic substances or  
15 wastes are released.
- 16 8. "Release" means emission, discharge, or disposal into  
17 any environmental media including air, water, or land.
- 18 9. "Toxics pollution prevention" means employment of a  
19 practice which reduces the industrial use of toxic substances  
20 or reduces the environmental and health hazards associated  
21 with an environmental waste without diluting or concentrating  
22 the waste before the release, handling, storage, transport,  
23 treatment, or disposal of the waste. The term includes toxics  
24 pollution prevention techniques but does not include a  
25 practice which is applied to an environmental waste after the  
26 waste is generated or comes into existence on or after the  
27 waste exits a production or commercial operation.
- 28 "Toxics pollution prevention" does not include, promote, or  
29 require any of the following:
- 30 a. Waste burning in industrial furnaces, boilers,  
31 smelters, or cement kilns for the purpose of energy recovery.
- 32 b. The transfer of an environmental waste from one  
33 environmental medium to another environmental medium, the  
34 workplace environment, or a product.
- 35 c. Offsite waste recycling.



1 d. Any other method of end-of-pipe management of  
2 environmental wastes including waste exchange and the  
3 incorporation or embedding of regulated environmental wastes  
4 into products or by-products.

5 10. "Toxics pollution prevention techniques" means any of  
6 the following practices by a toxics user:

7 a. Input substitution, which refers to replacing a toxic  
8 substance or raw material used in a production process with a  
9 nontoxic or less toxic substance.

10 b. Product reformulation, which refers to substituting for  
11 an existing end product an end product which is nontoxic or  
12 less toxic upon use or release.

13 c. Production process redesign or modification, which  
14 refers to developing and using production processes of a  
15 different design other than those currently in use.

16 d. Production process modernization, which refers to  
17 upgrading or replacing existing production process equipment  
18 or methods with other equipment or methods based on the same  
19 production process.

20 e. Improved operation and maintenance of existing  
21 production process equipment and methods, which refers to  
22 modifying or adding to existing equipment or methods,  
23 including but not limited to, such techniques as improved  
24 housekeeping practices, system adjustments, product and  
25 process inspections, and production process control equipment  
26 or methods.

27 f. Recycling, reuse, or extended use of toxic substances  
28 by using equipment or methods which become an integral part of  
29 the production process.

30 11. "Toxic substance" means any chemical substance in a  
31 gaseous, liquid, or solid state which is identified as a  
32 reportable substance under the federal Resource Conservation  
33 and Recovery Act, EPCRA, or defined as a hazardous air  
34 pollutant under the Clean Air Act of 1990. However, "toxic  
35 substance" does not include a chemical substance present in

1 the article; used as a structural component of a facility;  
2 present in a product used for routine janitorial or facility  
3 grounds maintenance; present in foods, drugs, cosmetics, or  
4 other personal items used by employees or other persons at a  
5 toxics user facility; present in process water or noncontact  
6 cooling water as drawn from the environment or from municipal  
7 sources; present in air used either as compressed air or as  
8 part of combustion; present in a pesticide or herbicide when  
9 used in agricultural applications; or present in crude, fuel,  
10 or lube oils for direct wholesale or retail sale.

11 12. "Toxics" means toxic substances.

12 13. "Toxics user" means a large quantity generator as  
13 defined pursuant to the federal Resource Conservation and  
14 Recovery Act, 42 U.S.C. § 6901 et seq. or a person required to  
15 report pursuant to Title III of the federal Superfund  
16 Amendments and Reauthorization Act of 1986.

17 14. "Waste exchange" means a method of end-of-pipe  
18 management of environmental wastes that involves the transfer  
19 of environmental wastes between businesses or facilities owned  
20 or operated by the same business for recovery or to serve a  
21 productive purpose.

22 Sec. 4. NEW SECTION. 455B.503 DUTIES OF THE DEPARTMENT.

23 The department shall do all of the following:

24 1. Identify all department and other state agency  
25 requirements relating to the reporting of the use or release  
26 of toxic substances, and to the greatest extent possible,  
27 standardize, consolidate, and coordinate reporting  
28 requirements to minimize unnecessary duplication.

29 2. To the extent practicable, coordinate and compile  
30 information regarding the release or use of toxic substances  
31 in order to provide access to this information to toxics users  
32 and to facilitate the enforcement of provisions of this part  
33 relating to toxic substances.

34 3. Require that persons required to report toxic release  
35 data pursuant to EPCRA, the federal Resource Conservation and

1 Recovery Act, or the federal Clean Air Act of 1990 submit a  
2 copy of the required report to the authority.

3 4. Develop and implement guidelines regarding assistance  
4 to toxics users to ensure that, where appropriate, the plans  
5 are multimedia in approach and are not duplicated by the  
6 department or other agencies of the state.

7 5. Identify obstacles to the promotion, within the toxics  
8 user community, of toxics pollution prevention techniques and  
9 practices.

10 Sec. 5. NEW SECTION. 455B.504 DUTIES OF THE AUTHORITY.

11 The waste management authority shall do all of the  
12 following:

13 1. Establish the criteria for the development of the  
14 toxics pollution prevention program.

15 2. Develop and implement a toxics pollution prevention  
16 program.

17 3. Assist toxics users in the completion of toxics  
18 pollution prevention plans and inventories, and provide  
19 technical assistance as requested by the toxics user.

20 4. a. Seek, receive, and accept funds in the form of  
21 appropriations, grants, awards, wills, bequests, endowments,  
22 and gifts for the uses designated pursuant to section  
23 455B.133B. The authority shall also coordinate existing  
24 resources and oversee the disbursement of federal grant moneys  
25 to provide consistency in achieving the toxics pollution  
26 prevention goal of the state.

27 b. Provide, through the use of moneys collected pursuant  
28 to section 455B.133A, the state matching funds for grants  
29 under the federal Pollution Prevention Act of 1990, Pub. L.  
30 No. 101-508, § 6604 and 6605.

31 5. Award grants, from the moneys collected pursuant to  
32 section 455B.133A, to support and sustain toxics pollution  
33 prevention and education efforts including efforts which  
34 provide for prevention through reduction in the use of toxics  
35 in production and commerce, and which may include any of the

1 following:

2 a. Grants to toxics users who submit a letter of intent to  
3 the division to develop toxics pollution prevention plans.

4 b. Grants to establish technical assistance programs to  
5 supplement the activities of the department and the division.

6 c. Grants to assist in developing and making available to  
7 toxics users and employees of toxics users, training materials  
8 which promote toxics pollution prevention within a toxics  
9 user's facility.

10 d. Grants to assist in establishing programs or materials  
11 to train and assist industry personnel in developing methods  
12 to measure the effects of and plan for toxics pollution  
13 prevention.

14 e. Grants to assist in creating programs to train and  
15 certify environmental auditors, engineers, and industrial  
16 hygienists to identify, evaluate, and implement toxics  
17 pollution prevention measures and alternatives to performance  
18 of audits, plans, and programs.

19 f. Grants to organizations for research and development,  
20 pilot tests, and demonstration projects that involve commonly  
21 used industrial or commercial processes or materials and which  
22 will produce results useful to businesses other than those  
23 involved in the research and development, pilot tests, or  
24 demonstration projects.

25 The division may require the provision of matching funds  
26 for a grant awarded under this subsection. Grant moneys  
27 awarded under this subsection shall not be used for capital  
28 improvements or equipment. Preference in the awarding of  
29 grants under this subsection shall be given for the purposes  
30 designated under paragraphs "c", "d", and "e" to toxics users  
31 who submit letters of intent to develop toxics pollution  
32 prevention plans.

33 Sec. 6. NEW SECTION. 455B.505 TOXICS POLLUTION  
34 PREVENTION CLEARINGHOUSE ESTABLISHED.

35 1. The authority and the Iowa waste reduction center at

1 the university of northern Iowa shall establish a toxics  
2 pollution prevention clearinghouse at the university of  
3 northern Iowa.

4 2. The clearinghouse shall do all of the following:

5 a. Function as a repository of research, data, and  
6 information regarding toxics pollution prevention activities  
7 throughout the state.

8 b. Submit an annual report to the governor and the general  
9 assembly which includes policy recommendations regarding  
10 toxics pollution prevention and a review of projects regarding  
11 the achievement and promotion of toxics pollution prevention  
12 techniques.

13 c. Provide a forum for public discussion and deliberation  
14 regarding toxic substances and toxics pollution prevention.

15 d. Promote increased coordination between the department,  
16 the Iowa waste reduction center at the university of northern  
17 Iowa, and other departments, agencies, and institutions with  
18 nonregulatory responsibilities relating to toxic substances.

19 e. Coordinate state efforts with those of the federal  
20 source reduction clearinghouse established pursuant to the  
21 federal Pollution Prevention Act of 1990, Pub. L. No. 101-508,  
22 § 6606 and shall make data collected available to the federal  
23 resource reduction clearinghouse and disseminate data  
24 available from the federal clearinghouse.

25 Sec. 7. NEW SECTION. 455B.506 TOXICS POLLUTION  
26 PREVENTION PLANS.

27 1. A toxics user required to report under section 313 of  
28 EPCRA, 42 U.S.C. § 11023, or a large quantity generator, as  
29 defined pursuant to the federal Resource Conservation and  
30 Recovery Act, 42 U.S.C. § 6901 et seq., shall be encouraged to  
31 develop a facility-wide multimedia toxics pollution prevention  
32 plan, as described pursuant to this section.

33 2. The authority shall adopt criteria for the information  
34 required in a multimedia toxics pollution prevention plan. To  
35 the extent possible, the plans shall coordinate reporting

1 requirements in order to minimize unnecessary duplication.

2 The plans shall include, but are not limited to, all of the  
3 following:

4 a. A policy statement which articulates upper management  
5 and corporate support for the toxics pollution prevention plan  
6 and its implementation.

7 b. The identification and quantities of toxic substances  
8 used and released. The estimates shall be provided for the  
9 total toxics used and released for each production process,  
10 line, method, activity, or technique, or combination of these,  
11 used to produce a product.

12 c. An assessment of the applicability, for each production  
13 process, line, method, activity, or technique, or a  
14 combination of these, in which a toxic substance is used, of  
15 each of the approaches designated as toxics pollution  
16 prevention techniques including input substitution; product  
17 reformulation; production process redesign or modification;  
18 production process modernization; improved operation and  
19 maintenance of existing production process equipment and  
20 methods; and recycling, reuse, or extended use of toxic  
21 substances.

22 d. A description of current and previous techniques used  
23 to reduce or eliminate toxics used or released.

24 e. An economic analysis of the proposed toxics pollution  
25 prevention plan. The economic analysis shall also include an  
26 evaluation of the impact upon the toxics user's existing labor  
27 force by division or department, and the projected impact upon  
28 future expansion of the toxics user's labor force.

29 f. A clear statement listing specific reduction  
30 objectives.

31 g. A method for employees of a toxics user to provide  
32 input and to be involved in the development of the plans. If  
33 the employees are represented by a labor union, organization,  
34 or association, a representative of the union, organization,  
35 or association shall be included in the development of the

1 plans.

2 3. The plans developed under this section shall not  
3 promote the use of pollution control or waste management  
4 approaches that address waste or pollution after the creation  
5 of the waste or pollution.

6 4. A toxics pollution prevention plan developed under this  
7 section shall be reviewed by the authority for completeness,  
8 adequacy, and accuracy.

9 5. A toxics user shall maintain a copy of the plan on the  
10 premises, and shall submit a summary of the plan to the  
11 department.

12 Sec. 8. Section 30.7, Code 1991, is amended by adding the  
13 following new subsection:

14 NEW SUBSECTION. 5. The department of employment services  
15 shall compile data or information from the emergency and  
16 hazardous chemical inventory forms required to be submitted to  
17 the commission under section 312 of the Emergency Planning and  
18 Community Right-to-know Act, 42 U.S.C. § 11022, by county, and  
19 shall make the compiled reports available, annually, to each  
20 county in the state by providing the report to at least one  
21 public library in the named county.

22 Sec. 9. Section 30.8, Code 1991, is amended by adding the  
23 following new subsection:

24 NEW SUBSECTION. 4. The department of natural resources  
25 shall compile the data collected pursuant to section 313 of  
26 the Emergency Planning and Community Right-to-know Act, 42  
27 U.S.C. § 11023, and shall make the compiled data available to  
28 the public upon request.

29 Sec. 10. Section 455B.133, Code 1991, is amended by adding  
30 the following new subsection:

31 NEW SUBSECTION. 8. Adopt rules consistent with the  
32 federal Clean Air Act of 1990, Pub. L. No. 101-549, which  
33 require the owner or operator of an air contaminant source to  
34 obtain an operating permit prior to operation of the source.  
35 The rules shall specify the information required to be

1 submitted with the application for a permit and the conditions  
2 under which a permit may be granted, modified, suspended,  
3 terminated, revoked, reissued, or denied. The commission may  
4 impose fees, including fees upon regulated pollutants emitted  
5 from an air contaminant source, in an amount sufficient to  
6 cover all reasonable costs, direct and indirect, required to  
7 develop and administer the permit program in conformance with  
8 the federal Clean Air Act of 1990, Pub. L. No. 101-549. In  
9 the case of affected sources and affected units regulated  
10 under Title IV of the federal Clean Air Act of 1990, Pub. L.  
11 No. 101-549, such fees shall be collected only as provided in  
12 and upon submission of an application pursuant to section 408  
13 of the federal Act. The fees collected pursuant to this  
14 subsection shall be deposited in the air contaminant source  
15 fund created pursuant to section 455B.133B, and shall be  
16 utilized solely to cover all reasonable costs required to  
17 develop and administer the programs required by Title V of the  
18 federal Clean Air Act of 1990, Pub. L. No. 101-549, including  
19 the permit program pursuant to section 502 of the federal Act  
20 and the small business stationary source technical and  
21 environmental assistance program pursuant to section 507 of  
22 the federal Act.

23 Sec. 11. NEW SECTION. 455B.133A TEMPORARY AIR TOXICS FEE  
24 IMPOSED.

25 1. Beginning July 1, 1991, and continuing until such time  
26 as the air contaminant source fee is established by rule of  
27 the commission, an annual fee of twenty-five dollars per ton  
28 of hazardous air pollutant emissions shall be paid based upon  
29 the following:

30 a. A source which emits hazardous air pollutants included  
31 in Title III of the federal Clean Air Act of 1990 shall pay  
32 the established fee based upon air emissions of such  
33 pollutants reported by the source to the United States  
34 environmental protection agency in the previous calendar year.

35 b. A source required to report hazardous air pollutant



1 emissions under section 313 of EPCRA shall pay the established  
2 fee based upon the most recently reported emissions.

3 c. A source which emits hazardous air pollutants which are  
4 included in Title III of the federal Clean Air Act of 1990,  
5 which are not also included in section 313 of EPCRA, shall pay  
6 the established fee based upon the source's estimates as  
7 required by section 313 of EPCRA including threshold  
8 determinations and de minimus exclusions.

9 2. Moneys collected shall be deposited in the air  
10 contaminant source fund created pursuant to section 455B.133B.  
11 Notwithstanding section 8.33, any unexpended balance remaining  
12 in the fund, which was generated pursuant to this section,  
13 shall remain in the fund for the purposes designated under  
14 section 455B.133, subsection 8. Notwithstanding section  
15 453.7, any interest and earnings on investments from moneys in  
16 the fund shall be used for the purposes of the fund.

17 Sec. 12. NEW SECTION. 455B.133B AIR CONTAMINANT SOURCE  
18 FUND CREATED.

19 1. An air contaminant source fund is created in the office  
20 of the treasurer of state under the control of the department.  
21 Moneys received from the fees assessed pursuant to sections  
22 455B.133A and 455B.133, subsection 8, shall be deposited in  
23 the fund. Moneys collected pursuant to section 455B.133,  
24 subsection 8, shall be used solely to defray the costs related  
25 to the permit, monitoring, and inspection program, including  
26 the small business stationary source technical and  
27 environmental compliance assistance program required pursuant  
28 to the federal Clean Air Act of 1990, sections 502 and 507,  
29 Pub. L. No. 101-549. Notwithstanding section 8.33, any  
30 unexpended balance in the fund at the end of each fiscal year  
31 shall be retained in the fund. Notwithstanding section 453.7,  
32 any interest and earnings on investments from money in the  
33 fund shall be credited to the fund.

34 2. Moneys collected pursuant to section 455B.133A shall be  
35 used by the department for the following:

1 a. To prepare, submit, and obtain approval of the permit  
2 program plan required by section 502(d) of the federal Clean  
3 Air Act of 1990.

4 b. To provide funding for grants approved by the authority  
5 pursuant to section 455B.504, subsection 5, and to provide  
6 technical and other assistance to toxics users, relating to  
7 toxics pollution prevention.

8 Sec. 13. Section 455B.134, subsection 3, unnumbered  
9 paragraph 1, Code 1991, is amended to read as follows:

10 Grant, modify, suspend, terminate, revoke, reissue or deny  
11 permits for the construction or operation of new, or modified,  
12 or existing air contaminant sources and for related control  
13 equipment, and conditional permits for electric power  
14 generating facilities subject to chapter 476A and other major  
15 stationary sources, subject to the rules adopted by the  
16 commission. The department shall furnish necessary  
17 application forms for such permits.

18 Sec. 14. Section 455B.134, subsection 3, Code 1991, is  
19 amended by adding the following new paragraph e, and  
20 relettering the subsequent paragraph:

21 NEW PARAGRAPH. e. A regulated air contaminant source for  
22 which a construction permit or conditional permit has been  
23 issued shall not be operated unless an operating permit also  
24 has been issued for the source. However, if the facility was  
25 in compliance with permit conditions prior to the requirement  
26 for an operating permit and has made timely application for an  
27 operating permit, the facility may continue operation until  
28 the operating permit is issued.

29 Sec. 15. Section 455B.134, subsection 9, Code 1991, is  
30 amended to read as follows:

31 9. Issue orders consistent with rules to cause the  
32 abatement or control of air pollution, or to secure compliance  
33 with permit conditions. In making the orders, the director  
34 shall consider the facts and circumstances bearing upon the  
35 reasonableness of the emissions involved, including but not

1 limited to, the character and degree of injury to, or  
2 interference with, the protection of health and the physical  
3 property of the public, the practicability of reducing or  
4 limiting the emissions from the air pollution source, and the  
5 suitability or unsuitability of the air pollution source to  
6 the area where it is located. An order may include advisory  
7 recommendations for the control of emissions from an air  
8 contaminant source and the reduction of the emission of air  
9 contaminants.

10 Sec. 16. Section 455B.141, Code 1991, is amended to read  
11 as follows:

12 455B.141 LEGAL ACTION.

13 If action to prevent, control, or abate air pollution is  
14 not taken in accordance with the rules established, or orders  
15 or permits issued by the department, or if the director has  
16 evidence that an emergency exists by reason of air pollution  
17 which requires immediate action to protect the public health  
18 or property, the attorney general, at the request of the  
19 director, shall commence legal action, in the name of the  
20 state, for an injunction to prevent any further or continued  
21 violation of such rule or order.

22 Sec. 17. CODIFICATION. The Code editor shall codify  
23 sections 455B.502 through 455B.506, as enacted in this Act, as  
24 a new part of division VI of chapter 455B.

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## HOUSE FILE 683

S-3691

1 Amend House File 683 as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. By striking page 4, line 22, through page 5,  
4 line 9.  
5 2. By striking page 5, line 31, through page 7,  
6 line 24, and inserting the following:  
7 "5. Develop and implement guidelines regarding  
8 assistance to toxics users to ensure that the plans  
9 are multimedia in approach and are not duplicated by  
10 the department or other agencies of the state.  
11 6. Identify obstacles to the promotion, within the  
12 toxics user community, of toxics pollution prevention  
13 techniques and practices.  
14 7. Compile an assessment inventory, through  
15 solicitation of recommendations of toxics users and  
16 owners and operators of air contaminant sources, of  
17 the informational and technical assistance needs of  
18 toxics users and air contaminant sources.  
19 8. Function as a repository of research, data, and  
20 information regarding toxics pollution prevention  
21 activities throughout the state.  
22 9. Provide a forum for public discussion and  
23 deliberation regarding toxic substances and toxics  
24 pollution prevention.  
25 10. Promote increased coordination between the  
26 department, the Iowa waste reduction center at the  
27 university of northern Iowa, and other departments,  
28 agencies, and institutions with responsibilities  
29 relating to toxic substances.  
30 11. Coordinate state and federal efforts of  
31 clearinghouses established to provide access to toxics  
32 reduction and management data for the use of toxics  
33 users.  
34 12. Make recommendations to the general assembly  
35 by January 1, 1992, regarding a funding structure for  
36 the long-term implementation and continuation of a  
37 toxics pollution prevention program."  
38 3. By striking page 10, line 25, through page 11,  
39 line 8, and inserting the following:  
40 "1. Beginning July 1, 1991, and thereafter until  
41 such time as the operating permit fee is established  
42 by rule of the commission, and approved by the United  
43 States environmental protection agency under section  
44 502(b) of the federal Clean Air Act of 1990, an annual  
45 fee of twenty-five dollars per ton of the hazardous  
46 air pollutants included in Title III of the federal  
47 Clean Air Act of 1990 shall be paid by the affected  
48 sources. The fee paid shall be based upon the air  
49 emissions of such pollutants as reported or estimated  
50 by the source in the previous calendar year.

S-3691

Page 2

1 A source required to report hazardous air pollutant  
2 emissions under section 313 of EPCRA shall pay a fee  
3 based upon the most recently reported emissions. A  
4 person shall pay the established fee for hazardous air  
5 pollutants which are not included in section 313 of  
6 EPCRA, but which are included in Title III of the  
7 federal Clean Air Act of 1990, based upon the  
8 facility's estimates of emissions as required by  
9 section 313 of EPCRA including threshold  
10 determinations and de minimus exclusions."

11 4. Page 12, by striking lines 4 and 5, and  
12 inserting the following:

13 "b. To provide".

14 5. Page 12, line 7, by inserting after the word  
15 "prevention" the following: "and to provide funding  
16 for the costs of compiling data pursuant to section  
17 30.7, subsection 5, and section 30.8, subsection 4".

18 6. Page 12, line 28, by striking the word  
19 "issued." and inserting the following: "issued or  
20 denied. Operating permits shall contain the requisite  
21 conditions and compliance schedules to ensure  
22 conformance with state and federal requirements. If  
23 construction of a new air contaminant source is  
24 proposed, the department may issue an operating permit  
25 concurrently with the construction permit, if possible  
26 and appropriate."

27 7. Page 13, line 24, by striking the figure "VI"  
28 and inserting the following: "VII".

29 8. Page 13, by inserting after line 24, the  
30 following:

31 "Sec. \_\_\_\_\_. USES OF AIR CONTAMINANT SOURCE FUND --  
32 REASSESSMENT. For the fiscal year beginning July 1,  
33 1991, and ending June 30, 1992, of the moneys  
34 deposited in the air contaminant source fund created  
35 in section 455B.133B, not more than ninety percent of  
36 the moneys shall be used for the purpose designated  
37 pursuant to section 455B.133B, subsection 2, paragraph  
38 "a", and not more than ten percent of the moneys shall  
39 be used for the purposes designated pursuant to  
40 section 455B.133B, subsection 2, paragraph "b". Of  
41 the ten percent allocated for the purpose designated  
42 under section 455B.133B, subsection 2, paragraph "b",  
43 not more than eight thousand dollars shall be used by  
44 the department of employment services to compile data  
45 as required pursuant to section 30.7, subsection 5.  
46 Notwithstanding any limitations on division or  
47 department full-time equivalent positions in any  
48 enacted legislation, the moneys deposited in the air  
49 contaminant source fund may be expended to employ  
50 additional staff as necessary to carry out the

S-3691

Page 3

1 provisions of this Act.

2 For the fiscal year beginning July 1, 1991, and  
3 ending June 30, 1992, a source required to pay the fee  
4 imposed pursuant to section 455B.133A shall pay the  
5 fee assessed to the department no later than September  
6 1, 1991. A source which does not pay the fee by  
7 September 1, 1991, shall pay an additional fee of ten  
8 percent of the originally assessed fee. If the total  
9 fees collected and deposited in the air contaminant  
10 source fund do not reach a total of five hundred  
11 thousand dollars, the department shall assess an  
12 additional fee based upon the total amount of  
13 hazardous air pollutant emissions reported, which in  
14 the aggregate generates an amount sufficient to  
15 satisfy the differential between the amount originally  
16 collected and five hundred thousand dollars.

17 Sec. \_\_\_\_ . EFFECTIVE DATE. This Act, being deemed  
18 of immediate importance, takes effect upon enactment."

19 9. Title page, line 2, by striking the words "and  
20 establishing fees" and inserting the following:  
21 "establishing fees, and providing an effective date".

22 10. By renumbering, relettering, and correcting  
23 internal references as necessary.

By COMMITTEE ON ENVIRONMENT AND  
ENERGY UTILITIES  
RALPH ROSENBERG, Chairperson

S-3691 FILED MAY 2, 1991

## HOUSE FILE 683

S-3707

1 Amend House File 683 as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. By striking page 4, line 22, through page 5,  
4 line 9.  
5 2. By striking page 5, line 31, through page 7,  
6 line 24, and inserting the following:  
7 "5. Develop and implement guidelines regarding  
8 assistance to toxics users to ensure that the plans  
9 are multimedia in approach and are not duplicated by  
10 the department or other agencies of the state.  
11 6. Identify obstacles to the promotion, within the  
12 toxics user community, of toxics pollution prevention  
13 techniques and practices.  
14 7. Compile an assessment inventory, through  
15 solicitation of recommendations of toxics users and  
16 owners and operators of air contaminant sources, of  
17 the informational and technical assistance needs of  
18 toxics users and air contaminant sources.  
19 8. Function as a repository of research, data, and  
20 information regarding toxics pollution prevention  
21 activities throughout the state.  
22 9. Provide a forum for public discussion and  
23 deliberation regarding toxic substances and toxics  
24 pollution prevention.  
25 10. Promote increased coordination between the  
26 department, the Iowa waste reduction center at the  
27 university of northern Iowa, and other departments,  
28 agencies, and institutions with responsibilities  
29 relating to toxic substances.  
30 11. Coordinate state and federal efforts of  
31 clearinghouses established to provide access to toxics  
32 reduction and management data for the use of toxics  
33 users.  
34 12. Make recommendations to the general assembly  
35 by January 1, 1992, regarding a funding structure for  
36 the long-term implementation and continuation of a  
37 toxics pollution prevention program."  
38 3. By striking page 10, line 25, through page 11,  
39 line 8, and inserting the following:  
40 "1. Beginning July 1, 1991, and thereafter until  
41 such time as the operating permit fee is established  
42 by rule of the commission, and approved by the United  
43 States environmental protection agency under section  
44 502(b) of the federal Clean Air Act of 1990, an annual  
45 fee of twenty-five dollars per ton of the hazardous  
46 air pollutants included in Title III of the federal  
47 Clean Air Act of 1990 shall be paid by the affected  
48 sources. The fee paid shall be based upon the air  
49 emissions of such pollutants as reported or estimated  
50 by the source in the previous calendar year.

S-3707

Page 2

1 A source required to report hazardous air pollutant  
2 emissions under section 313 of EPCRA shall pay a fee  
3 based upon the most recently reported emissions. A  
4 person shall pay the established fee for hazardous air  
5 pollutants which are not included in section 313 of  
6 EPCRA, but which are included in Title III of the  
7 federal Clean Air Act of 1990, based upon the  
8 facility's estimates of emissions as required by  
9 section 313 of EPCRA including threshold  
10 determinations and de minimus exclusions."

11 4. Page 12, by striking lines 4 and 5, and  
12 inserting the following:

13 "b. To provide".

14 5. Page 12, line 7, by inserting after the word  
15 "prevention" the following: "and to provide funding  
16 for the costs of compiling data pursuant to section  
17 30.7, subsection 5, and section 30.8, subsection 4".

18 6. Page 12, line 28, by striking the word  
19 "issued." and inserting the following: "issued or  
20 denied. Operating permits shall contain the requisite  
21 conditions and compliance schedules to ensure  
22 conformance with state and federal requirements. If  
23 construction of a new air contaminant source is  
24 proposed, the department may issue an operating permit  
25 concurrently with the construction permit, if possible  
26 and appropriate."

27 7. Page 13, line 24, by striking the figure "VI"  
28 and inserting the following: "VII".

29 8. Page 13, by inserting after line 24, the  
30 following:

31 "Sec. \_\_\_\_ . USES OF AIR CONTAMINANT SOURCE FUND --  
32 REASSESSMENT. For the fiscal year beginning July 1,  
33 1991, and ending June 30, 1992, of the moneys  
34 deposited in the air contaminant source fund created  
35 in section 455B.133B, not more than ninety percent of  
36 the moneys shall be used for the purpose designated  
37 pursuant to section 455B.133B, subsection 2, paragraph  
38 "a", and not more than ten percent of the moneys shall  
39 be used for the purposes designated pursuant to  
40 section 455B.133B, subsection 2, paragraph "b". Of  
41 the ten percent allocated for the purpose designated  
42 under section 455B.133B, subsection 2, paragraph "b",  
43 not more than eight thousand dollars shall be used by  
44 the department of employment services to compile data  
45 as required pursuant to section 30.7, subsection 5.  
46 Notwithstanding any limitations on division or  
47 department full-time equivalent positions in any  
48 enacted legislation, the moneys deposited in the air  
49 contaminant source fund may be expended to employ  
50 additional staff as necessary to carry out the



S-3707

Page 3

1 provisions of this Act.  
 2 For the fiscal year beginning July 1, 1991, and  
 3 ending June 30, 1992, a person required to pay the fee  
 4 imposed pursuant to section 455B.133A shall pay the  
 5 fee assessed to the department by November 1, but no  
 6 later than November 30, 1991, a person who does not  
 7 pay the fee by November 30, shall be assessed a  
 8 penalty of ten percent of the assessed fees due. The  
 9 department shall report to the general assembly no  
 10 later than February 15, 1992, as to the total amount  
 11 of fees collected and deposited in the air contaminant  
 12 source fund, with the amount needed to satisfy the  
 13 difference between the fees collected and five hundred  
 14 thousand dollars.  
 15 Sec. \_\_\_\_ . EFFECTIVE DATE. This Act, being deemed  
 16 of immediate importance, takes effect upon enactment."  
 17 9. Title page, line 2, by striking the words "and  
 18 establishing fees" and inserting the following:  
 19 "establishing fees, and providing an effective date".  
 20 10. By renumbering, relettering, and correcting  
 21 internal references as necessary.

By COMMITTEE ON WAYS AND MEANS  
 WILLIAM DIELEMAN, Chairperson

S-3707 FILED MAY 3, 1991  
 RULED OUT OF ORDER (p 1660)

## HOUSE FILE 683

S-3710

1 Amend the amendment, S-3691, to House File 683 as  
 2 amended, passed, and reprinted by the House as  
 3 follows:  
 4 1. Page 3, line 3, by striking the word "source"  
 5 and inserting the word "person".  
 6 2. Page 3, by striking lines 5 through 16 and  
 7 inserting the following: "fee assessed to the  
 8 department by November 1, but no later than November  
 9 30, 1991, a person who does not pay the fee by  
 10 November 30, shall be assessed a penalty of ten  
 11 percent of the assessed fees due. The department  
 12 shall report to the general assembly no later than  
 13 February 15, 1992, as to the total amount of fees  
 14 collected and deposited in the air contaminant source  
 15 fund, with the amount needed to satisfy the difference  
 16 between the fees collected and five hundred thousand  
 17 dollars."

By RICHARD F. DRAKE

S-3710 FILED MAY 3, 1991

ADOPTED (p 1660)  
 Reconsidered + Placed o/o 5/6 (p 1687)

## HOUSE FILE 683

S-3719

1 Amend amendment, S-3691, to House File 683, as  
2 amended, passed, and reprinted by the House, as  
3 follows:

4 1. Page 1, by inserting after line 37 the  
5 following:

6 "13. Work with the Iowa waste reduction center at  
7 the university of northern Iowa to assist small  
8 business toxics users with plan preparation and  
9 technical assistance.

10 \_\_\_\_\_. Page 8, by striking lines 7 through 21 and  
11 inserting the following:

12 "b. The identification and quantities of toxic  
13 substances used and released by groups of related  
14 production processes or by processes used in producing  
15 an identifiable product.

16 c. An assessment of the applicability of the  
17 approaches designated as toxic pollution prevention  
18 techniques including the following: input  
19 substitution; production reformulation; production  
20 process redesign or modification; production process  
21 modernization; improved operation and maintenance of  
22 existing production process equipment and methods; and  
23 recycling, reuse, or extended use of toxic substances,  
24 to the toxic users production processes as identified  
25 in paragraph "b"."

26 2. Page 2, by striking lines 32 through 45, and  
27 inserting the following: "REASSESSMENT. For the  
28 fiscal year beginning July 1, 1991 and ending June 30,  
29 1992, if five hundred thousand dollars or less is  
30 deposited in the air contaminant source fund created  
31 in section 455B.133B, fifty thousand dollars of the  
32 moneys shall be used for the purpose designated  
33 pursuant to section 455B.133B, subsection 2, paragraph  
34 "a", and the remainder of the moneys shall be used for  
35 the purposes designated pursuant to section 455B.133B,  
36 subsection 2, paragraph "b". Of the amount allocated  
37 for the purposes of paragraph "b", two thousand  
38 dollars shall be used by the department of employment  
39 services to compile data as required pursuant to  
40 section 30.7, subsection 5. For the fiscal year  
41 beginning July 1, 1991 and ending June 30, 1992, if  
42 more than five hundred thousand dollars is deposited  
43 in the air contaminant source fund, however, not more  
44 than ninety percent of the moneys shall be used for  
45 the purpose designated pursuant to section 455B.133B,  
46 subsection 2, paragraph "a", and not more than ten  
47 percent of the moneys shall be used for the purposes  
48 designated pursuant to section 455B.133B, subsection  
49 2, paragraph "b", with two thousand dollars of this  
50 portion being allocated to the department of

S-3719

Page 2

- 1 employment services to compile data as required  
2 pursuant to section 30.7, subsection 3."  
3 3. Page 3, line 3, by striking the word "source"  
4 and inserting the following: "person".  
5 4. Page 3, by striking lines 5 through 16 and  
6 inserting the following: "fee assessed to the  
7 department by November 1, 1991, but no later than  
8 November 30, 1991. A person who does not pay the fee  
9 by November 30, 1991, shall be assessed a penalty of  
10 ten percent of the assessed fees due. The department  
11 shall report to the general assembly no later than  
12 February 15, 1992, as to the total amount of fees  
13 collected and deposited in the air contaminant source  
14 fund, with the amount needed to satisfy the difference  
15 between the fees collected and five hundred thousand  
16 dollars."  
17 5. By renumbering and relettering as necessary.

By RICHARD VARN  
RICHARD F. DRAKE

S-3719 FILED MAY 6, 1991  
RULED OUT OF ORDER (p. 1687)

## HOUSE FILE 683

S-3721

- 1 Amend House File 683, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 13, by inserting after line 21 the  
4 following:  
5 "Sec. \_\_\_\_ . Section 455D.19, subsection 6, para-  
6 graph a, Code 1991, is amended to read as follows:  
7 a. Packaging or packaging components with a code  
8 indicating a date of manufacture prior to July 1,  
9 1990, and packaging or packaging components used by  
10 the alcoholic beverage industry prior to July 1,  
11 1992."  
12 2. By renumbering as necessary.

By RICHARD VARN  
RICHARD F. DRAKE

S-3721 FILED MAY 6, 1991  
ADOPTED (p. 1686)

## HOUSE FILE 683

S-3723

1 Amend amendment, S-3691, to House File 683, as  
2 amended, passed, and reprinted by the House, as  
3 follows:

4 1. Page 1, by inserting after line 37 the  
5 following:

6 "13. Work with the Iowa waste reduction center at  
7 the university of northern Iowa to assist small  
8 business toxics users with plan preparation and  
9 technical assistance.

10 \_\_\_\_\_. Page 8, by striking lines 7 through 21 and  
11 inserting the following:

12 "b. The identification and quantities of toxic  
13 substances used and released by groups of related  
14 production processes or by processes used in producing  
15 an identifiable product.

16 c. An assessment of the applicability of the  
17 approaches designated as toxic pollution prevention  
18 techniques including the following: input  
19 substitution; production reformulation; production  
20 process redesign or modification; production process  
21 modernization; improved operation and maintenance of  
22 existing production process equipment and methods; and  
23 recycling, reuse, or extended use of toxic substances,  
24 to the toxic users production processes as identified  
25 in paragraph "b"."

26 2. Page 2, by striking lines 32 through 45, and  
27 inserting the following: "REASSESSMENT. For the  
28 fiscal year beginning July 1, 1991 and ending June 30,  
29 1992, if five hundred thousand dollars or less is  
30 deposited in the air contaminant source fund created  
31 in section 455B.133B, fifty thousand dollars of the  
32 moneys shall be used for the purpose designated  
33 pursuant to section 455B.133B, subsection 2, paragraph  
34 "b", and the remainder of the moneys shall be used for  
35 the purposes designated pursuant to section 455B.133B,  
36 subsection 2, paragraph "a". Of the amount allocated  
37 for the purposes of paragraph "a", two thousand  
38 dollars shall be used by the department of employment  
39 services to compile data as required pursuant to  
40 section 30.7, subsection 5. For the fiscal year  
41 beginning July 1, 1991 and ending June 30, 1992, if  
42 more than five hundred thousand dollars is deposited  
43 in the air contaminant source fund, however, not more  
44 than ninety percent of the moneys shall be used for  
45 the purpose designated pursuant to section 455B.133B,  
46 subsection 2, paragraph "a", and not more than ten  
47 percent of the moneys shall be used for the purposes  
48 designated pursuant to section 455B.133B, subsection  
49 2, paragraph "b", with two thousand dollars of this  
50 portion being allocated to the department of

S-3723

Page 2

1 employment services to compile data as required  
2 pursuant to section 30.7, subsection 5."  
3 3. Page 3, line 3, by striking the word "source"  
4 and inserting the following: "person".  
5 4. Page 3, by striking lines 5 through 16 and  
6 inserting the following: "fee assessed to the  
7 department by November 1, 1991, but no later than  
8 November 30, 1991. A person who does not pay the fee  
9 by November 30, 1991, shall be assessed a penalty of  
10 ten percent of the assessed fees due. The department  
11 shall report to the general assembly no later than  
12 February 15, 1992, as to the total amount of fees  
13 collected and deposited in the air contaminant source  
14 fund, with the amount needed to satisfy the difference  
15 between the fees collected and five hundred thousand  
16 dollars."  
17 5. By renumbering and relettering as necessary.

By RICHARD VARN  
RICHARD F. DRAKE

S-3723 FILED MAY 6, 1991  
ADOPTED (p 1686)

**HOUSE FILE 683  
FISCAL NOTE**

A fiscal note for House File 683 as passed by the House is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 683 as passed by the House assigns duties relating to toxic pollution to the Department of Natural Resources (DNR) and the Department of Employment Services (DES), establishes a Toxic Pollution Prevention Clearinghouse at the University of Northern Iowa, encourages industry to complete Toxic Pollution Prevention Plans, establishes a temporary fee of \$25 per ton on certain air toxic emissions, establishes a permanent \$25 per ton fee to replace the temporary fee at some future date, and requires certain air toxic producers to obtain operating permits.

ASSUMPTIONS

1. The duties assigned to the DNR relating to the Toxic Pollution Prevention Program will require \$100,000 for 2.0 FTE positions and related support.
2. The information collection and distribution mandates given to the DES will require \$10,000 for capital equipment in the first year. There will also be a \$750 annual cost. These costs are not covered by the bill.
3. The Environmental Protection Division of the DNR will require \$250,000 for 3.0 FTE positions and related expenses to administer the air toxic portions of the bill for FY 1992, and \$825,000 for 7.0 FTE positions for administering the Program in FY 1993. Costs in future years cannot be predicted due to uncertainties in federal mandates.
4. Any remaining funds will be awarded through the grant programs.
5. The total number of tons subject to the \$25 Air Contaminant Source Fee is unknown, but is projected to be less than 30,000 tons per year.
6. The duties required of the Waste Reduction Center for the Clearinghouse provisions will not require additional funding.

FISCAL EFFECT

The Toxic Pollution Prevention Program will require \$125,00 per year for the responsibilities assigned to the DNR. The Air Toxics Program will cost \$250,000 in FY 1992, and \$825,000 in FY 1993 to administer.

The programs funded by the fee will require \$350,000 in FY 1992 and \$925,000 in FY 1993. This would require an annual income source of \$637,500 per year, which translates to 25,500 tons of air pollutants at \$25 per ton, and would not allow for any grant funding.

Sources:

Department of Natural Resources  
Department of Employment Services  
United States Environmental Protection Agency  
Citizens Fund

(LSB 1154HZ.3. JWR)

FILED MAY 1, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR

## SENATE AMENDMENT TO HOUSE FILE 683

H-4072

1 Amend House File 683 as amended, passed, and  
2 reprinted by the House, as follows:

3 1. By striking page 4, line 22, through page 5,  
4 line 9.

5 2. By striking page 5, line 31, through page 7,  
6 line 24, and inserting the following:

7 "5. Develop and implement guidelines regarding  
8 assistance to toxics users to ensure that the plans  
9 are multimedia in approach and are not duplicated by  
10 the department or other agencies of the state.

11 6. Identify obstacles to the promotion, within the  
12 toxics user community, of toxics pollution prevention  
13 techniques and practices.

14 7. Compile an assessment inventory, through  
15 solicitation of recommendations of toxics users and  
16 owners and operators of air contaminant sources, of  
17 the informational and technical assistance needs of  
18 toxics users and air contaminant sources.

19 8. Function as a repository of research, data, and  
20 information regarding toxics pollution prevention  
21 activities throughout the state.

22 9. Provide a forum for public discussion and  
23 deliberation regarding toxic substances and toxics  
24 pollution prevention.

25 10. Promote increased coordination between the  
26 department, the Iowa waste reduction center at the  
27 university of northern Iowa, and other departments,  
28 agencies, and institutions with responsibilities  
29 relating to toxic substances.

30 11. Coordinate state and federal efforts of  
31 clearinghouses established to provide access to toxics  
32 reduction and management data for the use of toxics  
33 users.

34 12. Make recommendations to the general assembly  
35 by January 1, 1992, regarding a funding structure for  
36 the long-term implementation and continuation of a  
37 toxics pollution prevention program.

38 13. Work with the Iowa waste reduction center at  
39 the university of northern Iowa to assist small  
40 business toxics users with plan preparation and  
41 technical assistance."

42 3. Page 8, by striking lines 7 through 21 and  
43 inserting the following:

44 "b. The identification and quantities of toxic  
45 substances used and released by groups of related  
46 production processes or by processes used in producing  
47 an identifiable product.

48 c. An assessment of the applicability of the  
49 approaches designated as toxic pollution prevention  
50 techniques including the following: input



H-4072

Page 2

1 substitution; production reformulation; production  
2 process redesign or modification; production process  
3 modernization; improved operation and maintenance of  
4 existing production process equipment and methods; and  
5 recycling, reuse, or extended use of toxic substances,  
6 to the toxic users production processes as identified  
7 in paragraph "b".

8 4. By striking page 10, line 25, through page 11,  
9 line 8, and inserting the following:

10 "1. Beginning July 1, 1991, and thereafter until  
11 such time as the operating permit fee is established  
12 by rule of the commission, and approved by the United  
13 States environmental protection agency under section  
14 502(b) of the federal Clean Air Act of 1990, an annual  
15 fee of twenty-five dollars per ton of the hazardous  
16 air pollutants included in Title III of the federal  
17 Clean Air Act of 1990 shall be paid by the affected  
18 sources. The fee paid shall be based upon the air  
19 emissions of such pollutants as reported or estimated  
20 by the source in the previous calendar year.

21 A source required to report hazardous air pollutant  
22 emissions under section 313 of EPCRA shall pay a fee  
23 based upon the most recently reported emissions. A  
24 person shall pay the established fee for hazardous air  
25 pollutants which are not included in section 313 of  
26 EPCRA, but which are included in Title III of the  
27 federal Clean Air Act of 1990, based upon the  
28 facility's estimates of emissions as required by  
29 section 313 of EPCRA including threshold  
30 determinations and de minimus exclusions."

31 5. Page 12, by striking lines 4 and 5, and  
32 inserting the following:

33 "b. To provide".

34 6. Page 12, line 7, by inserting after the word  
35 "prevention" the following: "and to provide funding  
36 for the costs of compiling data pursuant to section  
37 30.7, subsection 5, and section 30.8, subsection 4".

38 7. Page 12, line 28, by striking the word  
39 "issued." and inserting the following: "issued or  
40 denied. Operating permits shall contain the requisite  
41 conditions and compliance schedules to ensure  
42 conformance with state and federal requirements. If  
43 construction of a new air contaminant source is  
44 proposed, the department may issue an operating permit  
45 concurrently with the construction permit, if possible  
46 and appropriate."

47 8. Page 13, by inserting after line 21 the  
48 following:

49 "Sec. \_\_\_\_ . Section 455D.19, subsection 6, para-  
50 graph a, Code 1991, is amended to read as follows:

H-4072

Page 3

1 a. Packaging or packaging components with a code  
2 indicating a date of manufacture prior to July 1,  
3 1990, and packaging or packaging components used by  
4 the alcoholic beverage industry prior to July 1,  
5 1992."

6 9. Page 13, line 24, by striking the figure "VI"  
7 and inserting the following: "VII".

8 10. Page 13, by inserting after line 24, the  
9 following:

10 "Sec. \_\_\_\_ . USES OF AIR CONTAMINANT SOURCE FUND --  
11 REASSESSMENT. For the fiscal year beginning July 1,  
12 1991 and ending June 30, 1992, if five hundred  
13 thousand dollars or less is deposited in the air  
14 contaminant source fund created in section 455B.133B,  
15 fifty thousand dollars of the moneys shall be used for  
16 the purpose designated pursuant to section 455B.133B,  
17 subsection 2, paragraph "b", and the remainder of the  
18 moneys shall be used for the purposes designated  
19 pursuant to section 455B.133B, subsection 2, paragraph  
20 "a". Of the amount allocated for the purposes of  
21 paragraph "a", two thousand dollars shall be used by  
22 the department of employment services to compile data  
23 as required pursuant to section 30.7, subsection 5.  
24 For the fiscal year beginning July 1, 1991 and ending  
25 June 30, 1992, if more than five hundred thousand  
26 dollars is deposited in the air contaminant source  
27 fund, however, not more than ninety percent of the  
28 moneys shall be used for the purpose designated  
29 pursuant to section 455B.133B, subsection 2, paragraph  
30 "a", and not more than ten percent of the moneys shall  
31 be used for the purposes designated pursuant to  
32 section 455B.133B, subsection 2, paragraph "b", with  
33 two thousand dollars of this portion being allocated  
34 to the department of employment services to compile  
35 data as required pursuant to section 30.7, subsection  
36 5. Notwithstanding any limitations on division or  
37 department full-time equivalent positions in any  
38 enacted legislation, the moneys deposited in the air  
39 contaminant source fund may be expended to employ  
40 additional staff as necessary to carry out the  
41 provisions of this Act.

42 For the fiscal year beginning July 1, 1991, and  
43 ending June 30, 1992, a person required to pay the fee  
44 imposed pursuant to section 455B.133A shall pay the  
45 fee assessed to the department by November 1, 1991,  
46 but no later than November 30, 1991. A person who  
47 does not pay the fee by November 30, 1991, shall be  
48 assessed a penalty of ten percent of the assessed fees  
49 due. The department shall report to the general  
50 assembly no later than February 15, 1992, as to the

HOUSE FILE 683

AN ACT

RELATING TO THE ESTABLISHMENT OF A TOXICS POLLUTION PREVENTION PROGRAM, ESTABLISHING FEES, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. FINDINGS. The general assembly finds:

1. That the state annually produces millions of pounds of pollution and expends millions of dollars controlling this pollution.
2. That there are significant opportunities for industry to reduce or prevent pollution at the source through cost-effective changes in production, operation, and raw material use. These changes would afford industry substantial savings in raw materials, pollution control, and liability costs and would also reduce environmental harm and risks to worker health and safety.
3. That the opportunities for pollution prevention are often not realized, due to a focus upon treatment and disposal

rather than pollution prevention, the lack of an emphasis on a multimedia management approach to pollution prevention, and the lack of necessary information and technical assistance available to businesses in adopting pollution prevention practices.

4. That pollution prevention is fundamentally different from and should be encouraged in preference to waste management or pollution control and that the state should address the lack of attention to pollution prevention.

Sec. 2. POLLUTION PREVENTION GOAL AND POLICY. The goal of the state is to encourage pollution prevention through the use of pollution prevention techniques in preference to waste management or pollution control, and through coordination and cooperation between federal, state, and local departments, agencies, and institutions in the development and administration of a pollution prevention program.

Sec. 3. NEW SECTION. 455B.502 DEFINITIONS.

As used in this part, unless the context otherwise requires:

1. "Authority" means the waste management authority created pursuant to section 455B.483.
2. "Commission" means the environmental protection commission established pursuant to section 455A.6.
3. "Department" means the department of natural resources created pursuant to section 455A.2.
4. "Emergency Planning and Community Right-to-know Act" or "EPCRA" means the federal Emergency Planning and Community Right-to-know Act as defined in section 30.1.
5. "Environmental waste" means a pollutant, waste, or release regardless of the type or existence of regulation and regardless of the media affected by the pollutant, waste, or release.
6. "Existing toxics user" means a toxics user installation or source constructed prior to July 1, 1991.

7. "Multimedia" means any combination of air, water, land, or workplace environments into which toxic substances or wastes are released.

8. "Release" means emission, discharge, or disposal into any environmental media including air, water, or land.

9. "Toxics pollution prevention" means employment of a practice which reduces the industrial use of toxic substances or reduces the environmental and health hazards associated with an environmental waste without diluting or concentrating the waste before the release, handling, storage, transport, treatment, or disposal of the waste. The term includes toxics pollution prevention techniques but does not include a practice which is applied to an environmental waste after the waste is generated or comes into existence on or after the waste exits a production or commercial operation.

"Toxics pollution prevention" does not include, promote, or require any of the following:

a. Waste burning in industrial furnaces, boilers, smelters, or cement kilns for the purpose of energy recovery.

b. The transfer of an environmental waste from one environmental medium to another environmental medium, the workplace environment, or a product.

c. Offsite waste recycling.

d. Any other method of end-of-pipe management of environmental wastes including waste exchange and the incorporation or embedding of regulated environmental wastes into products or by-products.

10. "Toxics pollution prevention techniques" means any of the following practices by a toxics user:

a. Input substitution, which refers to replacing a toxic substance or raw material used in a production process with a nontoxic or less toxic substance.

b. Product reformulation, which refers to substituting for an existing end product an end product which is nontoxic or less toxic upon use or release.

c. Production process redesign or modification, which refers to developing and using production processes of a different design other than those currently in use.

d. Production process modernization, which refers to upgrading or replacing existing production process equipment or methods with other equipment or methods based on the same production process.

e. Improved operation and maintenance of existing production process equipment and methods, which refers to modifying or adding to existing equipment or methods, including but not limited to, such techniques as improved housekeeping practices, system adjustments, product and process inspections, and production process control equipment or methods.

f. Recycling, reuse, or extended use of toxic substances by using equipment or methods which become an integral part of the production process.

11. "Toxic substance" means any chemical substance in a gaseous, liquid, or solid state which is identified as a reportable substance under the federal Resource Conservation and Recovery Act, EPCRA, or defined as a hazardous air pollutant under the Clean Air Act of 1990. However, "toxic substance" does not include a chemical substance present in the article; used as a structural component of a facility; present in a product used for routine janitorial or facility grounds maintenance; present in foods, drugs, cosmetics, or other personal items used by employees or other persons at a toxics user facility; present in process water or noncontact cooling water as drawn from the environment or from municipal sources; present in air used either as compressed air or as part of combustion; present in a pesticide or herbicide when used in agricultural applications; or present in crude, fuel, or lube oils for direct wholesale or retail sale.

12. "Toxics" means toxic substances.

13. "Toxics user" means a large quantity generator as defined pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. or a person required to report pursuant to Title III of the federal Superfund Amendments and Reauthorization Act of 1980.

14. "Waste exchange" means a method of end-of-pipe management of environmental wastes that involves the transfer of environmental wastes between businesses or facilities owned or operated by the same business for recovery or to serve a productive purpose.

Sec. 4. NEW SECTION. 455B.503 DUTIES OF THE AUTHORITY.

The waste management authority shall do all of the following:

1. Establish the criteria for the development of the toxics pollution prevention program.
2. Develop and implement a toxics pollution prevention program.
3. Assist toxics users in the completion of toxics pollution prevention plans and inventories, and provide technical assistance as requested by the toxics user.
4. a. Seek, receive, and accept funds in the form of appropriations, grants, awards, wills, bequests, endowments, and gifts for the uses designated pursuant to section 455B.133B. The authority shall also coordinate existing resources and oversee the disbursement of federal grant moneys to provide consistency in achieving the toxics pollution prevention goal of the state.
- b. Provide, through the use of moneys collected pursuant to section 455B.133A, the state matching funds for grants under the federal Pollution Prevention Act of 1990, Pub. L. No. 101-508, § 6604 and 6605.
5. Develop and implement guidelines regarding assistance to toxics users to ensure that the plans are multimedia in approach and are not duplicated by the department or other agencies of the state.

6. Identify obstacles to the promotion, within the toxics user community, of toxics pollution prevention techniques and practices.

7. Compile an assessment inventory, through solicitation of recommendations of toxics users and owners and operators of air contaminant sources, of the informational and technical assistance needs of toxics users and air contaminant sources.

8. Function as a repository of research, data, and information regarding toxics pollution prevention activities throughout the state.

9. Provide a forum for public discussion and deliberation regarding toxic substances and toxics pollution prevention.

10. Promote increased coordination between the department, the Iowa waste reduction center at the university of northern Iowa, and other departments, agencies, and institutions with responsibilities relating to toxic substances.

11. Coordinate state and federal efforts of clearinghouses established to provide access to toxics reduction and management data for the use of toxics users.

12. Make recommendations to the general assembly on January 1, 1992, regarding a funding structure for the long-term implementation and continuation of a toxics pollution prevention program.

13. Work with the Iowa waste reduction center at the university of northern Iowa to assist small business toxics users with plan preparation and technical assistance.

Sec. 5. NEW SECTION. 455B.504 TOXICS POLLUTION PREVENTION PLANS.

1. A toxics user required to report under section 313 of EPCRA, 42 U.S.C. § 11023, or a large quantity generator, as defined pursuant to the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., shall be encouraged to develop a facility-wide multimedia toxics pollution prevention plan, as described pursuant to this section.

2. The authority shall adopt criteria for the information required in a multimedia toxic pollution prevention plan. To the extent possible, the plans shall coordinate reporting requirements in order to minimize unnecessary duplication. The plans shall include, but are not limited to, all of the following:

a. A policy statement which articulated upper management and corporate support for the toxics pollution prevention plan and its implementation.

b. The identification and quantities of toxic substances used and released by groups or related production processes or by processes used in producing an identifiable product.

c. An assessment of the applicability of the approaches designated as toxic pollution prevention techniques including the following: input substitution, product or re- formulation; production process redesign or modification; production process modernization, improved operation and maintenance of existing production process equipment and methods, and recycling, reuse, or extended use of toxic substances, to the toxic user's production processes as identified in paragraph "b".

d. A description of current and previous techniques used to reduce or eliminate toxics used or released.

e. An economic analysis of the proposed toxics pollution prevention plan. The economic analysis shall also include an evaluation of the impact upon the toxics user's existing labor force by division or department, and the projected impact upon future expansion of the toxics user's labor force.

f. A clear statement list of specific reduction objectives.

g. A method for employees of a toxics user to provide input and to be involved in the development of the plans. If the employees are represented by a labor union, organization, or association, a representative of the union, organization, or association shall be included in the development of the plans.

3. The plans developed under this section shall not promote the use of pollution control or waste management approaches that address waste or pollution after the creation of the waste or pollution.

4. A toxics pollution prevention plan developed under this section shall be reviewed by the authority for completeness, adequacy, and accuracy.

5. A toxics user shall maintain a copy of the plan on the premises, and shall submit a summary of the plan to the department.

Sec. 6. Section 30.7, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department of employment services shall compile data or information from the emergency and hazardous chemical inventory forms required to be submitted to the commission under section 312 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11022, by county, and shall make the compiled reports available, annually, to each county in the state by providing the report to at least one public library in the named county.

Sec. 7. Section 30.8, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The department of natural resources shall compile the data collected pursuant to section 313 of the Emergency Planning and Community Right-to-know Act, 42 U.S.C. § 11023, and shall make the compiled data available to the public upon request.

Sec. 8. Section 4559.133, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Adopt rules consistent with the federal Clean Air Act of 1990, Pub. L. No. 101-549, which require the owner or operator of an air contaminant source to obtain an operating permit prior to operation of the source. The rules shall specify the information required to be submitted with the application for a permit and the conditions

under which a permit may be granted, modified, suspended, terminated, revoked, renewed, or denied. The commission may impose fees, including fees upon regulated pollutants emitted from an air contaminant source, in an amount sufficient to cover all reasonable costs, direct and indirect, required to develop and administer the permit program in conformance with the federal Clean Air Act of 1990, Pub. L. No. 101-549. In the case of affected sources and affected units regulated under Title IV of the federal Clean Air Act of 1990, Pub. L. No. 101-549, such fees shall be collected only as provided in and upon submission of an application pursuant to section 408 of the federal Act. The fees collected pursuant to this subsection shall be deposited in the air contaminant source fund created pursuant to section 455B.133B, and shall be utilized solely to cover all reasonable costs required to develop and administer the programs required by Title V of the federal Clean Air Act of 1990, Pub. L. No. 101-549, including the permit program pursuant to section 502 of the federal Act and the small business stationary source technical and environmental assistance program pursuant to section 507 of the federal Act.

Sec. 9. NEW SECTION. 455B.133A TEMPORARY AIR TOXICS FEE IMPOSED.

1. Beginning July 1, 1991, and thereafter until such time as the operating permit fee is established by rule of the commission, and approved by the United States environmental protection agency under section 507(b) of the federal Clean Air Act of 1990, an annual fee of twenty-five dollars per ton of the hazardous air pollutants included in Title III of the federal Clean Air Act of 1990 shall be paid by the affected sources. The fee paid shall be based upon the air emissions of such pollutants as reported or estimated by the source in the previous calendar year.

A source required to report hazardous air pollutant emissions under section 313 of EPCRA shall pay a fee based

upon the most recently reported emissions. A person shall pay the established fee for hazardous air pollutants which are not included in section 313 of EPCRA, but which are included in Title III of the federal Clean Air Act of 1990, based upon the facility's estimates of emissions as required by section 313 of EPCRA including threshold determinations and de minimus exclusions.

2. Moneys collected shall be deposited in the air contaminant source fund created pursuant to section 455B.133B. Notwithstanding section 8.33, any unexpended balance remaining in the fund, which was generated pursuant to this section, shall remain in the fund for the purposes designated under section 455B.133, subsection 8. Notwithstanding section 453.7, any interest and earnings on investments from moneys of the fund shall be used for the purposes of the fund.

Sec. 10. NEW SECTION. 455B.133B AIR CONTAMINANT SOURCE FUND CREATED.

1. An air contaminant source fund is created in the office of the treasurer of state under the control of the department. Moneys received from the fees assessed pursuant to sections 455B.133A and 455B.133, subsection 8, shall be deposited in the fund. Moneys collected pursuant to section 455B.133, subsection 8, shall be used solely to defray the costs related to the permit, monitoring, and inspection program, including the small business stationary source technical and environmental compliance assistance program required pursuant to the federal Clean Air Act of 1990, sections 502 and 507, Pub. L. No. 101-549. Notwithstanding section 8.33, any unexpended balance in the fund at the end of each fiscal year shall be retained in the fund. Notwithstanding section 453.7, any interest and earnings on investments from money in the fund shall be credited to the fund.

2. Moneys collected pursuant to section 455B.133A shall be used by the department for the following:

a. To prepare, submit, and obtain approval of the permit program plan required by section 502(d) of the federal Clean Air Act of 1990.

b. To provide technical and other assistance to toxics users, relating to toxics pollution prevention and to provide funding for the costs of compiling data pursuant to section 30.7, subsection 5, and section 30.8, subsection 4.

Sec. 11. Section 45B.134, subsection 3, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Grant, modify, suspend, terminate, revoke, reissue or deny permits for the construction or operation of new, or modified, or existing air contaminant sources and for related control equipment, and conditional permits for electric power generating facilities subject to chapter 476A and other major stationary sources, subject to the rules adopted by the commission. The department shall furnish necessary application forms for such permits.

Sec. 12. Section 45B.134, subsection 3, Code 1991, is amended by adding the following new paragraph e, and relettering the subsequent paragraph:

NEW PARAGRAPH. e. A regulated air contaminant source for which a construction permit or conditional permit has been issued shall not be operated unless an operating permit also has been issued for the source. However, if the facility was in compliance with permit conditions prior to the requirement for an operating permit and has made timely application for an operating permit, the facility may continue operation until the operating permit is issued or denied. Operating permits shall contain the requisite conditions and compliance schedules to ensure conformance with state and federal requirements. If construction of a new air contaminant source is proposed, the department may issue an operating permit concurrently with the construction permit, if possible and appropriate.

Sec. 13. Section 45B.134, subsection 9, Code 1991, is amended to read as follows:

9. Issue orders consistent with rules to reduce, abate or control of air pollution, with permit conditions. In making the orders, the director shall consider the facts and circumstances bearing upon the reasonableness of the emissions involved, including but not limited to, the character and degree of injury to, or interference with, the protection of health and the physical property of the public, the practicability of reducing or limiting the emissions from the air pollution source, and the suitability or unsuitability of the air pollution source to the area where it is located. An order may include advisory recommendations for the control of emissions from an air contaminant source and the reduction of the emission of air contaminants.

Sec. 14. Section 45B.141, Code 1991, is amended to read as follows:

45B.141 LEGAL ACTION.

If action to prevent, control, or abate air pollution is not taken in accordance with the rules established, or orders or permits issued by the department, or if the director has evidence that an emergency exists by reason of air pollution which requires immediate action to protect the public health or property, the attorney general, at the request of the director, shall commence legal action, in the name of the state, for an injunction to prevent any further or continued violation of such rule or order.

Sec. 15. Section 45D.19, subsection 6, paragraph a, Code 1991, is amended to read as follows:

a. Packaging or packaging components with a code indicating a date of manufacture prior to July 1, 1990, and packaging or packaging components used by the alcoholic beverage industry prior to July 1, 1992.



Sec. 16. CODIFICATION. The code editor shall modify sections 455B.502 through 455B.504, as enacted in this Act, as a new part of division VII of chapter 455B.

Sec. 17. USES OF AIR CONTAMINANT SOURCE FUND -- REASSESSMENT. For the fiscal year beginning July 1, 1991, and ending June 30, 1992, if five hundred thousand dollars or less is deposited in the air contaminant source fund created in section 455B.133B, fifty thousand dollars of the moneys shall be used for the purpose designated pursuant to section 455B.133B, subsection 2, paragraph "b", and the remainder of the moneys shall be used for the purposes designated pursuant to section 455B.133B, subsection 2, paragraph "a". Of the amount allocated for the purposes of paragraph "b", two thousand dollars shall be used by the department of employment services to compile data as required pursuant to section 30.7, subsection 5. For the fiscal year beginning July 1, 1991, and ending June 30, 1992, if more than five hundred thousand dollars is deposited in the air contaminant source fund, however, not more than ninety percent of the moneys shall be used for the purpose designated pursuant to section 455B.133B, subsection 2, paragraph "a", and not more than ten percent of the moneys shall be used for the purposes designated pursuant to section 455B.133B, subsection 2, paragraph "b", with two thousand dollars of this portion being allocated to the department of employment services to compile data as required pursuant to section 30.7, subsection 5. Notwithstanding any limitations on division or department full-time equivalent positions in any enacted legislation, the moneys deposited in the air contaminant source fund may be expended to employ additional staff as necessary to carry out the provisions of this Act.

For the fiscal year beginning July 1, 1991, and ending June 30, 1992, a person required to pay the fee imposed pursuant to section 455B.133A shall pay the fee assessed to the department by November 1, 1991, but no later than November 30, 1991. A

person who does not pay the fee by November 30, 1991, shall be assessed a penalty of ten percent of the assessed fee due. The department shall report to the general assembly no later than February 15, 1992, as to the total amount of fees collected and deposited in the air contaminant source fund, with the amount needed to satisfy the difference between the fees collected and five hundred thousand dollars.

Sec. 18. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

ROBERT C. ARNOULD  
Speaker of the House

JOE J. WESSER  
President of the Senate

I hereby certify that this bill originated in the house and is known as House File 683, Seventy-fourth General Assembly.

JOSEPH O'HERN  
Chief Clerk of the House

Approved  1991

TERRY D. BRANSFORD  
Governor

HF 683