



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

June 10, 2005

The Honorable Chester Culver
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit **House File 869**, an Act relating to tax credits provided for purposes of acquiring agricultural assets by beginning farmers and providing effective and applicability dates.

House File 869 provides income tax credits to a farmer that sells or leases land or other agricultural assets to a new farmer. This bill was originally introduced to provide incentives for existing farmers to assist beginning farmers in acquiring land and starting their operations, and I support the original intent of this bill.

However, during the legislative process, another provision was attached to this bill that expands the sales tax exemption for farm machinery and equipment used in livestock production. The Department of Revenue has a number of cases under protest regarding the items contained in this bill, and one of the cases is currently pending before the Iowa Supreme Court. At this time, approval of House File 869 would not be appropriate because the Supreme Court has yet to issue a ruling on the matter of the sales tax exemption.

I am unable to approve House File 869 due to the inclusion of Sections 5 - 7. I encourage legislators to pass a bill during the next legislative session that meets the original intent of House File 869 by providing an incentive to assist beginning farmers and is consistent with the decision ultimately reached by the Iowa Supreme Court on this issue.

For the above reasons, I respectfully disapprove **House File 869**.

Sincerely,

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 869

AN ACT

RELATING TO FINANCIAL TRANSACTIONS ASSOCIATED WITH
AGRICULTURAL PRODUCTION, BY PROVIDING FOR TAXES, INCLUDING
TAX CREDITS AND TAX EXEMPTIONS, AND INCLUDING EFFECTIVE AND
RETROACTIVE AND OTHER APPLICABILITY DATES.

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

Section 1. Section 175.2, Code 2005, is amended by adding
the following new subsection:

NEW SUBSECTION. 0A. "Agricultural assets" means
agricultural land, depreciable agricultural property, crops,
or livestock.

Sec. 2. NEW SECTION. 175.37 AGRICULTURAL ASSETS TRANSFER
TAX CREDIT.

1. An agricultural assets transfer tax credit is allowed
under this section. The tax credit is allowed against the
taxes imposed in chapter 422, division II, as provided in
section 422.11I, and in chapter 422, division III, as provided
in section 422.33, to facilitate the transfer of agricultural
assets from a taxpayer to a beginning farmer.

2. In order to qualify for the tax credit, the taxpayer must meet qualifications established by rules adopted by the authority. At a minimum, the taxpayer must be a person who may acquire or otherwise obtain or lease agricultural land in this state pursuant to chapter 9H or 9I. However, the taxpayer must not be a person who may acquire or otherwise obtain or lease agricultural land exclusively because of an exception provided in one of those chapters or in a provision of another chapter of this Code including but not limited to chapter 10 or 10C, or sections 15.331B or 15E.207.

3. An individual may claim a tax credit under this section of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

4. The tax credit is allowed only for agricultural assets that are subject to a lease or rental agreement. The agreement may be made on a cash basis or on a commodity share basis which includes a share of the crops or livestock produced on the agricultural land. The agreement must be in writing. The lease must be for a term of at least two years. The lease may be renewed for a term of at least two years. The taxpayer may claim the tax credit under the renewal lease in the same manner as the original lease. A lease does not include a lease intended as a security.

5. The tax credit shall be calculated based on the gross amount paid to the taxpayer under the lease or rental agreement.

a. Except as provided in paragraph "b", the tax credit shall equal five percent of the amount paid to the taxpayer under the agreement.

b. The tax credit shall equal fifteen percent of the amount paid to the taxpayer from crops or animals sold under an agreement in which the payment is exclusively made from the sale of crops or animals.

6. a. In order to qualify as a beginning farmer, a person must be eligible to receive financial assistance under section 175.12. The taxpayer may claim the tax credit on the gross amount paid to the taxpayer as provided in this section until the beginning farmer is no longer eligible to receive financial assistance under section 175.12.

b. A tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit. A tax credit shall not be transferable to any other person other than the taxpayer's estate or trust upon the taxpayer's death.

7. A taxpayer shall not claim a tax credit under this section unless a tax credit certificate issued by the authority is attached to the taxpayer's tax return for the tax year for which the tax credit is claimed. The authority must review and approve an application for a tax credit as provided by rules adopted by the authority. The application must include a copy of the lease or rental agreement. The authority may approve an application and issue a tax credit certificate to a taxpayer who has previously been allowed a tax credit under this section. However, the authority shall not approve an application or issue a certificate to a taxpayer if any of the following applies:

a. The taxpayer is at fault for terminating a prior lease or rental agreement subject to this section as determined by the authority.

b. The taxpayer is any of the following:

(1) A party to a pending administrative or judicial action, including a contested case proceeding under chapter 17A, relating to an alleged violation involving an animal feeding operation as regulated by the department of natural resources, regardless of whether the pending action is brought by the department or the attorney general.

(2) Classified as a habitual violator for a violation of state law involving an animal feeding operation as regulated by the department of natural resources.

c. The beginning farmer is responsible for managing or maintaining agricultural land and other agricultural assets that are greater than necessary in order to adequately support a beginning farmer as determined by the authority according to rules which shall be adopted by the authority.

d. The agricultural assets are being leased or rented at a rate which is substantially higher or lower than the market rate for similar agricultural assets leased or rented within the same community, as determined by the authority.

8. The authority shall review each existing lease or rental agreement which is part of an application approved by the authority on a quarterly basis. The authority may require that the taxpayer and the beginning farmer provide additional information as determined relevant by the authority.

9. A taxpayer or the beginning farmer may terminate a lease or rental agreement as provided in the agreement or by law. The taxpayer must immediately notify the authority of the termination.

a. If the authority determines that the taxpayer is not at fault for the termination, the authority shall not issue a tax certificate to the taxpayer for a subsequent tax year based on the approved application. Any prior tax credit is allowed as provided in this section. The taxpayer may apply for and be issued another tax credit certificate for the same agricultural assets as provided in this section for any remaining tax years for which a certificate was not issued.

b. If the authority determines that the taxpayer is at fault for the termination, any prior tax credit allowed under this section is disallowed. The tax credit shall be recaptured and the amount of the tax credit shall be immediately due and payable to the department of revenue. If a taxpayer does not immediately notify the authority of the termination, the taxpayer shall be conclusively deemed at fault for the termination.

Sec. 3. NEW SECTION. 422.11I AGRICULTURAL ASSETS TRANSFERRED TO BEGINNING FARMERS.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by

an agricultural assets transfer tax credit as allowed under section 175.37.

Sec. 4. Section 422.33, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 17. The taxes imposed under this division shall be reduced by an agricultural assets transfer tax credit as allowed under section 175.37.

Sec. 5. Section 423.3, subsection 11, unnumbered paragraph 1, Code 2005, is amended to read as follows:

The sales price exclusive of services of farm machinery and equipment, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the machinery and equipment, and including auger systems, curtains and curtain systems, drip systems, fan and fan systems, shutters, inlets and shutter or inlet systems, and refrigerators, and replacement parts, if all of the following conditions are met:

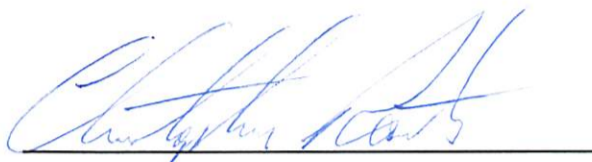
Sec. 6. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the amendment of section 423.3, subsection 11, in this Act, for the exemption of sales of auger systems, curtains and curtain systems, drip systems, fan and fan systems, shutters, inlets and shutter or inlet systems, and refrigerators occurring between January 1, 1992, and the effective date of this Act, shall be limited to twenty-five thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to October 1, 2005, notwithstanding any other provision of law. If the amount of claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue shall prorate the twenty-five thousand dollars among all claimants in relation to the amounts of the claimants' valid claims. Claimants shall not be entitled to interest on any refunds.

Sec. 7. EFFECTIVE DATES AND RETROACTIVE APPLICABILITY PROVISIONS.

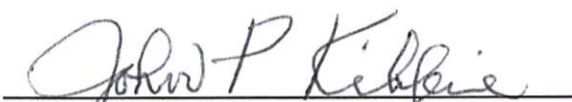
1. Except as provided in subsection 2, this Act takes effect January 1, 2006, and is applicable to tax years beginning on or after that date.

2. The section of this Act amending section 423.3 and the section of this Act providing refunds resulting from the

amendment of section 423.3, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 1992.

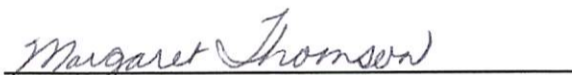


CHRISTOPHER C. RANTS
Speaker of the House



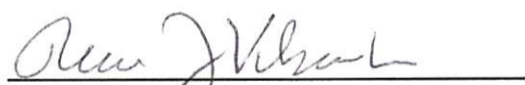
JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 869, Eighty-first General Assembly.



MARGARET THOMSON
Chief Clerk of the House

Disapproved
Approved June 10, 2005



THOMAS J. VILSACK
Governor