

2-27-96 Referred to
W. & Mason

FEB 20 1996
Place On Calendar

HOUSE FILE 2254
BY COMMITTEE ON ECONOMIC
DEVELOPMENT

(SUCCESOR TO HSB 616)

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

A BILL FOR

1 An Act relating to eligibility criteria and benefits, including
2 tax benefits to businesses under the new jobs and income
3 program and establishing a penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

HF 2254

1 Section 1. Section 15.327, Code 1995, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 1A. "Contractor or subcontractor" means a
4 person who contracts with the eligible business or a
5 supporting business or subcontracts with a contractor for the
6 provision of property, materials, or services for the
7 construction or equipping of a facility, located within the
8 economic development area, of the eligible business or a
9 supporting business.

10 NEW SUBSECTION. 3A. "Economic development area" means a
11 site or sites designated by the department of economic
12 development for the purpose of attracting an eligible business
13 and supporting businesses to locate facilities within the
14 state.

15 NEW SUBSECTION. 6. "Project completion" means the first
16 date upon which the average annualized production of finished
17 product for the preceding ninety-day period at the
18 manufacturing facility operated by the eligible business
19 within the economic development area is at least fifty percent
20 of the initial design capacity of the facility. The eligible
21 business shall inform the department of revenue and finance in
22 writing within two weeks of project completion.

23 NEW SUBSECTION. 7. "Supporting business" means a business
24 under contract with the eligible business to provide property,
25 materials, or services which are a necessary component of the
26 operation of the manufacturing facility. To qualify as a
27 supporting business, the business shall have a permanent
28 facility or operations located within the economic development
29 area and the revenue from fulfilling the contract with the
30 eligible business shall constitute at least seventy-five
31 percent of the revenue generated by the business from all
32 activities undertaken from the facility within the economic
33 development area.

34 Sec. 2. NEW SECTION. 15.331A SALES, SERVICE, AND USE TAX
35 REFUND -- CONTRACTOR OR SUBCONTRACTOR.

1 The eligible business or a supporting business shall be
2 entitled to a refund of the taxes paid under chapters 422 and
3 423 for gas, electricity, water, or sewer utility services,
4 goods, wares, or merchandise, or on services rendered,
5 furnished, or performed to or for a contractor or
6 subcontractor and used in the fulfillment of a written
7 contract relating to the construction or equipping of a
8 facility within the economic development area of the eligible
9 business or a supporting business. Taxes attributable to
10 intangible property and furniture and furnishings shall not be
11 refunded.

12 To receive the refund a claim shall be filed by the
13 eligible business or a supporting business with the department
14 of revenue and finance as follows:

15 a. The contractor or subcontractor shall state under oath,
16 on forms provided by the department, the amount of the sales
17 of goods, wares, or merchandise or services rendered,
18 furnished, or performed including water, sewer, gas, and
19 electric utility services for use in the economic development
20 area upon which sales or use tax has been paid prior to the
21 project completion, and shall file the forms with the eligible
22 business or supporting business before final settlement is
23 made.

24 b. The eligible business or a supporting business shall,
25 not more than six months after project completion, make
26 application to the department for any refund of the amount of
27 the taxes paid pursuant to chapter 422 or 423 upon any goods,
28 wares, or merchandise, or services rendered, furnished, or
29 performed, including water, sewer, gas, and electric utility
30 services. The application shall be made in the manner and
31 upon forms to be provided by the department, and the
32 department shall audit the claim and, if approved, issue a
33 warrant to the eligible business or supporting business in the
34 amount of the sales or use tax which has been paid to the
35 state of Iowa under a contract. A claim filed by the eligible

1 business or a supporting business in accordance with this
2 subsection shall not be denied by reason of a limitation
3 provision set forth in chapter 421, 422, or 423.

4 c. A contractor or subcontractor who willfully makes a
5 false report of tax paid under the provisions of this
6 subsection is guilty of a simple misdemeanor and in addition
7 is liable for the payment of the tax and any applicable
8 penalty and interest.

9 Sec. 3. NEW SECTION. 15.332A SALES AND USE TAX
10 EXEMPTION.

11 An eligible business may claim an exemption from sales and
12 use taxation under section 422.45, subsection 27, for property
13 which is exempt from taxation under section 15.332,
14 notwithstanding the requirements of section 422.45, subsection
15 27, or any other provision of the Code to the contrary.

16 Sec. 4. Section 15.335, unnumbered paragraph 2, Code 1995,
17 is amended by striking the unnumbered paragraph and inserting
18 in lieu thereof the following:

19 Any credit in excess of the tax liability for the taxable
20 year shall be refunded with interest computed under section
21 422.25. In lieu of claiming a refund, a taxpayer may elect to
22 have the overpayment shown on its final, completed return
23 credited to the tax liability for the following year.

24 Sec. 5. NEW SECTION. 15.337 WAIVER OF PROGRAM
25 QUALIFICATION REQUIREMENTS.

26 A community may request the waiver of the capital
27 investment requirement or the requirement for number of
28 positions created under section 15.329. The department may
29 grant a waiver for good cause shown and approve the program
30 application.

31 As used in this section, "good cause shown" includes but is
32 not limited to a demonstrated lack of growth in the community,
33 a significant percentage of persons in the community who have
34 incomes at or below the poverty level, community unemployment
35 rate higher than the state average, or an immediate threat

1 posed to the community's workforce due to business downsizing
2 or closure.

3 Sec. 6. Section 422.45, subsection 27, unnumbered
4 paragraph 1, Code Supplement 1995, is amended to read as
5 follows:

6 The gross receipts from the sale or rental, ~~on or after~~
7 ~~July 1, 1987 or on or after July 1, 1985, in the case of an~~
8 ~~industry which has entered into an agreement under chapter~~
9 ~~260E prior to the sale or lease,~~ of industrial machinery,
10 equipment and computers, including replacement parts which are
11 depreciable for state and federal income tax purposes, if the
12 following conditions are met:

13 Sec. 7. Section 422.45, subsection 27, paragraph b, Code
14 Supplement 1995, is amended to read as follows:

15 b. The industrial machinery, equipment and computers must
16 be real property within the scope of section 427A.1,
17 subsection 1, paragraphs "e" or "j", ~~and must.~~ For sales
18 occurring on or after January 1, 1994, the property is not
19 required to be subject to taxation as real property. ~~This~~
20 ~~paragraph does not apply to machinery and equipment used in~~
21 ~~the recycling or reprocessing of waste products qualifying for~~
22 ~~an exemption under paragraph "a".~~

23 ~~However, the provisions of chapters 404 and 427B which~~
24 ~~result in the exemption from taxation of property for property~~
25 ~~tax purposes do not preclude the property from receiving this~~
26 ~~exemption if the property otherwise qualifies.~~

27 The gross receipts from the sale or rental of hand tools
28 are not exempt. The gross receipts from the sale or rental of
29 pollution control equipment qualifying under paragraph "a"
30 shall be exempt.

31 The gross receipts from the sale or rental of industrial
32 machinery, equipment, and computers, including pollution
33 control equipment, within the scope of section 427A.1,
34 subsection 1, paragraphs "h" and "i", shall not be exempt.

35

EXPLANATION

1 This bill creates additional benefits which are available
2 to businesses which participate in the new jobs and income
3 program administered by the department of economic development
4 and authorizes the department to waive eligibility
5 requirements in certain circumstances.

6 Specifically, the bill provides as follows:

7 1. The bill defines the terms, contractor or
8 subcontractor, project completion, supporting business, and
9 economic development area for the purposes of certain benefits
10 under the new jobs and income program.

11 2. That the business participating in the new jobs and
12 income program or a supporting business is entitled to a
13 refund of sales, service, and use taxes paid by a contractor
14 or subcontractor in the performance of a written contract
15 relating to the construction or equipping of a facility within
16 an economic development area.

17 3. That the eligible business may claim as exempt from
18 sales and use taxation, machinery and equipment which is
19 subject to the value-added property tax exemption under the
20 program.

21 4. That the research activities credit provided under the
22 program is a refundable credit. In lieu of receiving a refund
23 of corporate taxes paid, the business may have the amount of
24 the overpaid taxes credited against next year's tax liability.

25 5. That the department may waive the eligibility
26 requirements for the program for good cause. Good cause
27 includes, high unemployment in the community, a high poverty
28 level in the community, and lack of community growth.

29 The bill provides that for sales of machinery and equipment
30 occurring on or after July 1, 1994, the machinery and
31 equipment does not have to be taxable as real property to
32 qualify for the exemption from the sales and use tax.

33

34

35

Connack, Chair
Hammit, Barry
Drake
McCoy
O'Brien

HSB 616

ECONOMIC DEVELOPMENT

Succeeded By
SF (HF) 2254

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
ECONOMIC DEVELOPMENT BILL)

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

A BILL FOR

1 An Act relating to eligibility criteria and benefits, including
2 tax benefits to businesses under the new jobs and income
3 program and establishing a penalty.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 Section 1. Section 15.327, Code 1995, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 1A. "Contractor or subcontractor" means a
4 person who contracts with the eligible business or a
5 supporting business or subcontracts with a contractor for the
6 provision of property, materials, or services for the
7 construction or equipping of a facility, located within the
8 economic development area, of the eligible business or a
9 supporting business.

10 NEW SUBSECTION. 3A. "Economic development area" means a
11 site or sites designated by the department of economic
12 development for the purpose of attracting an eligible business
13 and supporting businesses to locate facilities within the
14 state.

15 NEW SUBSECTION. 6. "Project completion" means the first
16 date upon which the average annualized production of finished
17 product for the preceding ninety-day period at the
18 manufacturing facility operated by the eligible business
19 within the economic development area is at least fifty percent
20 of the initial design capacity of the facility. The eligible
21 business shall inform the department of revenue and finance in
22 writing within two weeks of project completion.

23 NEW SUBSECTION. 7. "Supporting business" means a business
24 under contract with the eligible business to provide property,
25 materials, or services which are a necessary component of the
26 operation of the manufacturing facility. To qualify as a
27 supporting business, the business shall have a permanent
28 facility or operations located within the economic development
29 area and the revenue from fulfilling the contract with the
30 eligible business shall constitute at least seventy-five
31 percent of the revenue generated by the business from all
32 activities undertaken from the facility within the economic
33 development area.

34 Sec. 2. NEW SECTION. 15.331A SALES, SERVICE, AND USE TAX
35 REFUND -- CONTRACTOR OR SUBCONTRACTOR.

1 The eligible business or a supporting business shall be
2 entitled to a refund of the taxes paid under chapters 422 and
3 423 for gas, electricity, water, or sewer utility services,
4 goods, wares, or merchandise, or on services rendered,
5 furnished, or performed to or for a contractor or
6 subcontractor and used in the fulfillment of a written
7 contract relating to the construction or equipping of a
8 facility within the economic development area of the eligible
9 business or a supporting business. Taxes attributable to
10 intangible property and furniture and furnishings shall not be
11 refunded.

12 To receive the refund a claim shall be filed by the
13 eligible business or a supporting business with the department
14 of revenue and finance as follows:

15 a. The contractor or subcontractor shall state under oath,
16 on forms provided by the department, the amount of the sales
17 of goods, wares, or merchandise or services rendered,
18 furnished, or performed including water, sewer, gas, and
19 electric utility services for use in the economic development
20 area upon which sales or use tax has been paid prior to the
21 project completion, and shall file the forms with the eligible
22 business or supporting business before final settlement is
23 made.

24 b. The eligible business or a supporting business shall,
25 not more than six months after project completion, make
26 application to the department for any refund of the amount of
27 the taxes paid pursuant to chapter 422 or 423 upon any goods,
28 wares, or merchandise, or services rendered, furnished, or
29 performed, including water, sewer, gas, and electric utility
30 services. The application shall be made in the manner and
31 upon forms to be provided by the department, and the
32 department shall audit the claim and, if approved, issue a
33 warrant to the eligible business or supporting business in the
34 amount of the sales or use tax which has been paid to the
35 state of Iowa under a contract. A claim filed by the eligible

1 business or a supporting business in accordance with this
2 subsection shall not be denied by reason of a limitation
3 provision set forth in chapter 421, 422, or 423.

4 c. A contractor or subcontractor who willfully makes a
5 false report of tax paid under the provisions of this
6 subsection is guilty of a simple misdemeanor and in addition
7 is liable for the payment of the tax and any applicable
8 penalty and interest.

9 Sec. 3. NEW SECTION. 15.331B EXEMPTION FROM LAND
10 OWNERSHIP RESTRICTIONS FOR NONRESIDENT ALIENS.

11 1. The eligible business and a supporting business, to the
12 extent the eligible business or the supporting business is not
13 actively engaged in farming within the economic development
14 area, may acquire, own, and lease land in the economic
15 development area, notwithstanding the provisions of sections
16 9H.4, 9H.5, and 567.3, and shall be exempt from the
17 requirements of section 567.4. The eligible business and
18 supporting business shall comply with the remaining provisions
19 of chapters 9H and 567 to the extent they do not conflict with
20 this subsection.

21 2. "Actively engaged in farming" means any of the
22 following:

23 a. Inspecting agricultural production activities within
24 the economic development area periodically and furnishing at
25 least half of the value of the tools and paying at least half
26 the direct cost of production.

27 b. Regularly and frequently making or taking an important
28 part in making management decisions substantially contributing
29 to or affecting the success of the farm operations within the
30 economic development area.

31 c. Performing physical work which significantly
32 contributes to crop or livestock production.

33 Sec. 4. NEW SECTION. 15.332A SALES AND USE TAX
34 EXEMPTION.

35 An eligible business may claim an exemption from sales and

1 use taxation under section 422.45, subsection 27, for property
2 which is exempt from taxation under section 15.332,
3 notwithstanding the requirements of section 422.45, subsection
4 27, or any other provision of the Code to the contrary.

5 Sec. 5. Section 15.335, unnumbered paragraph 2, Code 1995,
6 is amended by striking the unnumbered paragraph and inserting
7 in lieu thereof the following:

8 Any credit in excess of the tax liability for the taxable
9 year shall be refunded with interest computed under section
10 422.25. In lieu of claiming a refund, a taxpayer may elect to
11 have the overpayment shown on its final, completed return
12 credited to the tax liability for the following year.

13 Sec. 6. NEW SECTION. 15.337 WAIVER OF PROGRAM
14 QUALIFICATION REQUIREMENTS.

15 A community may request the waiver of the capital
16 investment requirement or the requirement for number of
17 positions created under section 15.329. The department may
18 grant a waiver for good cause shown and approve the program
19 application.

20 As used in this section, "good cause shown" includes but is
21 not limited to a demonstrated lack of growth in the community,
22 a significant percentage of persons in the community who have
23 incomes at or below the poverty level, community unemployment
24 rate higher than the state average, or an immediate threat
25 posed to the community's workforce due to business downsizing
26 or closure.

27 Sec. 7. Section 422.45, subsection 27, unnumbered
28 paragraph 1, Code Supplement 1995, is amended to read as
29 follows:

30 The gross receipts from the sale or rental, ~~on or after~~
31 ~~July 1, 1987 or on or after July 1, 1985, in the case of an~~
32 ~~industry which has entered into an agreement under chapter~~
33 ~~260E prior to the sale or lease,~~ of industrial machinery,
34 equipment and computers, including replacement parts which are
35 depreciable for state and federal income tax purposes, if the

1 following conditions are met:

2 Sec. 8. Section 422.45, subsection 27, paragraph b, Code
3 Supplement 1995, is amended to read as follows:

4 b. The industrial machinery, equipment and computers must
5 be real property within the scope of section 427A.1,
6 subsection 1, paragraphs "e" or "j", ~~and must.~~ For sales
7 occurring on or after January 1, 1994, the property is not
8 required to be subject to taxation as real property. This
9 ~~paragraph does not apply to machinery and equipment used in~~
10 ~~the recycling or reprocessing of waste products qualifying for~~
11 ~~an exemption under paragraph "a".~~

12 ~~However, the provisions of chapters 404 and 427B which~~
13 ~~result in the exemption from taxation of property for property~~
14 ~~tax purposes do not preclude the property from receiving this~~
15 ~~exemption if the property otherwise qualifies.~~

16 The gross receipts from the sale or rental of hand tools
17 are not exempt. The gross receipts from the sale or rental of
18 pollution control equipment qualifying under paragraph "a"
19 shall be exempt.

20 The gross receipts from the sale or rental of industrial
21 machinery, equipment, and computers, including pollution
22 control equipment, within the scope of section 427A.1,
23 subsection 1, paragraphs "h" and "i", shall not be exempt.

24 EXPLANATION

25 This bill creates additional benefits which are available
26 to businesses which participate in the new jobs and income
27 program administered by the department of economic development
28 and authorizes the department to waive eligibility
29 requirements in certain circumstances.

30 Specifically, the bill provides as follows:

31 1. The bill defines the terms, contractor or
32 subcontractor, project completion, supporting business, and
33 economic development area for the purposes of certain benefits
34 under the new jobs and income program.

35 2. That the business participating in the new jobs and

1 income program or a supporting business is entitled to a
2 refund of sales, service, and use taxes paid by a contractor
3 or subcontractor in the performance of a written contract
4 relating to the construction or equipping of a facility within
5 an economic development area.

6 3. That an eligible business and supporting businesses are
7 exempt from the limitations on ownership by foreign
8 corporations of agricultural land in Iowa so long as the
9 business owning the land is not actively engaged in farming.

10 4. That the eligible business may claim as exempt from
11 sales and use taxation, machinery and equipment which is
12 subject to the value-added property tax exemption under the
13 program.

14 5. That the research activities credit provided under the
15 program is a refundable credit. In lieu of receiving a refund
16 of corporate taxes paid, the business may have the amount of
17 the overpaid taxes credited against next year's tax liability.

18 6. That the department may waive the eligibility
19 requirements for the program for good cause. Good cause
20 includes, high unemployment in the community, a high poverty
21 level in the community, and lack of community growth.

22 The bill provides that for sales of machinery and equipment
23 occurring on or after July 1, 1994, the machinery and
24 equipment does not have to be taxable as real property to
25 qualify for the exemption from the sales and use tax.

26 BACKGROUND STATEMENT

27 SUBMITTED BY THE AGENCY

28 New section 15.332A allows companies which receive
29 assistance under the new jobs and income program (program) and
30 opt for the complete exemption from property taxation on
31 machinery and equipment to also receive the sales and use tax
32 exemption for the machinery and equipment. This provides
33 program participants the same machinery and equipment tax
34 treatment as other manufacturers in the state have.

35 The amendment to section 15.335 allows a company to take

1 the full 13 percent refundable tax credit for qualifying
2 research and development activities under the program. The
3 credit is based on federal tax guidelines. Currently, Iowa
4 law states that only 6.5 percent of the credit is refundable,
5 with the other 6.5 percent carried forward against future
6 corporate tax liability over the next seven years. This
7 provision inhibits Iowa's ability to compete for and attract
8 those innovative companies which otherwise would desire to
9 locate and develop their cutting-edge technologies here.

10 Iowa business stands on the threshold of becoming a world
11 leader in the manufacture and export of value-added
12 agricultural products. Iowa farmers stand to gain enormously
13 as these businesses' product lines and markets grow.
14 Agricultural producers will be counted on to provide the raw
15 materials and basic commodities needed in the manufacturing
16 process, thereby significantly enhancing the value of their
17 products and labor. For this opportunity to occur, the state
18 must allow for a tax credit which makes it worthwhile for a
19 business to invest in research and development, technology
20 transfer, and new product development.

21 The department strategic plan and the Iowa futures project
22 have both identified technology as a key to Iowa's future
23 growth and prosperity. Allowing for the full 13 percent tax
24 credit provides a strong signal that Iowa is serious about
25 encouraging new research and development and technology
26 transfer within its borders. This initiative will also have a
27 positive effect on capital investment, job creation, graduate
28 retention, product development, and business diversification.
29 It should also revitalize many of Iowa's more mature
30 industries with new products and technological innovations.

31 The proposal to allow an eligible business or supporting
32 business to receive a full or partial refund of sales tax on
33 the gross receipts or rental price of property purchased or
34 rented prior to completion of the work on the project under
35 the program provides program participants the same benefits as

1 those businesses in quality jobs enterprise zones. The
2 department can use this benefit as a distinct incentive within
3 the program when competing with other states for qualified
4 large economic development projects.

5 The limitation which now exists in the Code severely
6 restricting foreign ownership of agricultural land has
7 inhibited the department's ability to attract high-quality,
8 foreign-owned manufacturing or processing facilities to the
9 state. With the passage of the North American free trade
10 agreement and the general agreement on tariffs and trade, the
11 world is becoming ever smaller in regard to business ownership
12 and partnership. The state needs to remain competitive in its
13 attempts to attract those multinational corporations that
14 create and offer high paying jobs to our college graduates in
15 biosciences and engineering. Many of these foreign-based
16 companies have joint ventures with American partners. Under
17 our existing law, however, they are considered aliens and are
18 unable to acquire the land they need for their operations.
19 The physical site needs of such companies can run from 500 to
20 3,000 acres and up, especially those agriculturally oriented
21 businesses that purchase and process large amounts of Iowa's
22 raw materials, e.g., corn and soybeans. Large silicon chip
23 and auto manufacturing and assembly plants also have this kind
24 of site need. Such companies do not desire to farm the land
25 and will hold any excess land only for future expansion needs
26 or as a buffer zone for auto and truck traffic noise.

27
28
29
30
31
32
33
34
35