

MAR 18 1996

WAYS & MEANS CALENDAR

HOUSE FILE **2481**
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2254)

(P. 1241) 4/3/96 W. & Means
5- Do Pass 4/23/96

5/1 5- Motion to R/C by Murphy
5/1/96 5- Motion to R/C withdrawn

Passed House, (P. 1342) Date 4/3/96
Vote: Ayes 77 Nays 21

Passed Senate, (P. 1569) Date 5/1/96
Vote: Ayes 46 Nays 2

Approved May 30, 1996

(P. 2153) Passed 5-1-96
Vote 95-0

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

HF 2481

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. 15.334A 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 15.334,
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, a unique opportunity to

1 use existing unutilized or underutilized facilities in the
2 community, or an immediate threat posed to the community's
3 workforce due to business downsizing or closure.

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

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

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

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

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

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

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

EXPLANATION

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

7 Specifically, the bill provides as follows:

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

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

18 3. That the eligible business may claim as exempt from
19 sales and use taxation, machinery and equipment which is
20 exempt from property tax under the 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, an opportunity to use existing
29 facilities, and lack of community growth.

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

34

35

**HOUSE FILE 2481
FISCAL NOTE**

A fiscal note for House File 2481 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 2481 provides for a refund of sales tax levied on building materials and other items during the construction phase for businesses which participate in the New Jobs and Income Program; authorizes the Department of Economic Development (DED) to waive certain eligibility requirements; and makes the research activities income tax credit refundable for eligible businesses.

ASSUMPTIONS**Minimum Requirement Waivers**

The Bill would allow a community to request and the DED to grant a waiver of current law requirements relating to minimal capital investment and job creation. Under current law an eligible business must have a minimum initial capital investment of \$10.5 million (indexed as of 1995 third quarter) and create at least 50 full-time positions. Currently, there is no reliable estimate as to the number of additional projects that would result from these waivers. This estimate does not take into account the effect of this expansion on local government or General Fund revenues.

Sales Tax Refunds

1. This estimate is based on current law New Jobs and Income Program contract approvals from September 1994 through October 1995. Over the 13-month period, eight businesses were approved for benefits under the Program. These businesses have combined projected capital investments of approximately \$1.4 billion.
2. There will be an average of seven project approvals per year with combined capital investments of \$1.2 billion.
3. Approximately 4.5% of the capital estimate is assumed to be spent on sales or use taxable items. Building materials represent approximately 50.0% of the cost of construction projects. In the case of enterprise zones and benefits imparted to Ipsco, Inc., sales and use taxable items comprised an estimated 7.0% of total capital investment. Approximately 5.0% of the capital investment of future projects will be expended on taxable items.
4. Projects already approved will not receive additional benefits due to HF 2481.
5. Due to the lag time involved with the application and development process cost, 20.0% of the annual impact would be realized in the first year,

60.0% in the second year, and the full impact would be realized in the third and subsequent years.

Research Activities Credit

House File 2481 makes the research activities credit under the New Jobs and Income Program a refundable credit. Under current law, the credit may be used to offset tax liability, but is not refundable. This fiscal note utilizes the Department of Revenue and Finance estimate of the annual impact of this provision. However, due to the lag time associated with the application and development process, the impact in FY 1997 and FY 1998 is expected to be insignificant.

FISCAL IMPACT

House File 2481 is expected to result in an estimated decrease in revenues to General Fund of approximately \$0.6 million in FY 1997, \$1.8 million in FY 1998, and \$3.3 million in FY 1999 and subsequent fiscal years. These amounts will increase to the extent that minimum requirement waivers on jobs and investment are utilized.

SOURCES

Department of Economic Development
Department of Revenue and Finance

(LSB 3416hz, JAN)

FILED MARCH 21, 1996

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 2481

S-5838

1 Amend House File 2481, as passed by the House, as
2 follows:
3 1. Page 3, line 28, by inserting after the figure
4 "15.329." the following: "However, in no event shall
5 the minimum number of jobs created be less than
6 fifteen or the minimum capital investment be less than
7 three million dollars per application under the
8 program. The department shall develop an appropriate
9 formula of minimum jobs created and capital investment
10 required per program application which can be
11 authorized under the waiver."
12 2. Page 4, by striking lines 4 through 35 and
13 inserting the following:
14 "The department shall not grant a waiver under this
15 section after June 30, 1998."

By TOM VILSACK

S-5838 FILED APRIL 23, 1996

Adopted
5/1/96 (p. 1568)

SENATE AMENDMENT TO
HOUSE FILE 2481

H-6089

1 Amend House File 2481, as passed by the House, as
2 follows:
3 1. Page 3, line 28, by inserting after the figure
4 "15.329." the following: "However, in no event shall
5 the minimum number of jobs created be less than
6 fifteen or the minimum capital investment be less than
7 three million dollars per application under the
8 program. The department shall develop an appropriate
9 formula of minimum jobs created and capital investment
10 required per program application which can be
11 authorized under the waiver."
12 2. Page 4, by striking lines 4 through 35 and
13 inserting the following:
14 "The department shall not grant a waiver under this
15 section after June 30, 1998."

RECEIVED FROM THE SENATE

H-6089 FILED MAY 1, 1996

House Concurred 5/1/96 (p. 2153)

HOUSE FILE 2481

H-5698

- 1 Amend House File 2481 as follows:
- 2 1. Page 2, line 9, by inserting after the words
- 3 "supporting business" the following: "only if the
- 4 contractor or subcontractor pays at least the
- 5 prevailing wages required for federal contracts for
- 6 similar work".

By SHOULTZ of Black Hawk

H-5698 FILED MARCH 27, 1996

Lost 4/3/96 (P. 134)

HOUSE FILE 2481

H-5699

- 1 Amend House File 2481 as follows:
- 2 1. Page 3, line 23, by inserting after the word
- 3 "year." the following: "However, an eligible business
- 4 which enters into an agreement under this part on or
- 5 after the effective date of this Act shall not claim
- 6 the credit under this section for more than ten
- 7 years."

By SHOULTZ of Black Hawk

H-5699 FILED MARCH 27, 1996

Lost 4/3/96 (P. 134)

HOUSE FILE 2481

H-5624

- 1 Amend House File 2481 as follows:
- 2 1. Page 3, lines 20 and 21, by striking the words
- 3 and figure "with interest computed under section
- 4 422.25".

By WARNSTADT of Woodbury

H-5624 FILED MARCH 28, 1996

Withdrawn 4-3-96 (P. 134)

HOUSE FILE 2481

AN ACT

RELATING TO ELIGIBILITY CRITERIA AND BENEFITS, INCLUDING TAX
BENEFITS TO BUSINESSES UNDER THE NEW JOBS AND INCOME PROGRAM
AND ESTABLISHING A PENALTY.

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

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

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

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

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

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

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

The eligible business or a supporting business shall be
entitled to a refund of the taxes paid under chapters 422 and
423 for gas, electricity, water, or sewer utility services,
goods, wares, or merchandise, or on services rendered,
furnished, or performed to or for a contractor or
subcontractor and used in the fulfillment of a written
contract relating to the construction or equipping of a
facility within the economic development area of the eligible
business or a supporting business. Taxes attributable to

intangible property and furniture and furnishings shall not be refunded.

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

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

b. The eligible business or a supporting business shall, not more than six months after project completion, make application to the department for any refund of the amount of the taxes paid pursuant to chapter 422 or 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be made in the manner and upon forms to be provided by the department, and the department shall audit the claim and, if approved, issue a warrant to the eligible business or supporting business in the amount of the sales or use tax which has been paid to the state of Iowa under a contract. A claim filed by the eligible business or a supporting business in accordance with this subsection shall not be denied by reason of a limitation provision set forth in chapter 421, 422, or 423.

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

Sec. 3. NEW SECTION. 15.334A SALES AND USE TAX EXEMPTION.

An eligible business may claim an exemption from sales and use taxation under section 422.45, subsection 27, for property which is exempt from taxation under section 15.334, notwithstanding the requirements of section 422.45, subsection 27, or any other provision of the Code to the contrary.

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

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

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

A community may request the waiver of the capital investment requirement or the requirement for number of positions created under section 15.329. However, in no event shall the minimum number of jobs created be less than fifteen or the minimum capital investment be less than three million dollars per application under the program. The department shall develop an appropriate formula of minimum jobs created and capital investment required per program application which can be authorized under the waiver. The department may grant a waiver for good cause shown and approve the program application.

As used in this section, "good cause shown" includes but is not limited to a demonstrated lack of growth in the community, a significant percentage of persons in the community who have incomes at or below the poverty level, community unemployment rate higher than the state average, a unique opportunity to use existing unutilized or underutilized facilities in the community, or an immediate threat posed to the community's workforce due to business downsizing or closure.

House File 2481, p. 5

The department shall not grant a waiver under this section after June 30, 1998.

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2481, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 30, 1996

TERRY E. BRANSTAD
Governor

HF 2481