

# House Study Bill 616

## Conference Committee Text

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1 1 Section 1. Section [15.327](#), Code 1995, is amended by adding  
1 2 the following new subsections:

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

1 10 NEW SUBSECTION. 3A. "Economic development area" means a  
1 11 site or sites designated by the department of economic  
1 12 development for the purpose of attracting an eligible business  
1 13 and supporting businesses to locate facilities within the  
1 14 state.

1 15 NEW SUBSECTION. 6. "Project completion" means the first  
1 16 date upon which the average annualized production of finished  
1 17 product for the preceding ninety-day period at the  
1 18 manufacturing facility operated by the eligible business  
1 19 within the economic development area is at least fifty percent  
1 20 of the initial design capacity of the facility. The eligible  
1 21 business shall inform the department of revenue and finance in  
1 22 writing within two weeks of project completion.

1 23 NEW SUBSECTION. 7. "Supporting business" means a business  
1 24 under contract with the eligible business to provide property,  
1 25 materials, or services which are a necessary component of the  
1 26 operation of the manufacturing facility. To qualify as a  
1 27 supporting business, the business shall have a permanent  
1 28 facility or operations located within the economic development  
1 29 area and the revenue from fulfilling the contract with the  
1 30 eligible business shall constitute at least seventy-five  
1 31 percent of the revenue generated by the business from all  
1 32 activities undertaken from the facility within the economic  
1 33 development area.

1 34 Sec. 2. NEW SECTION. 15.331A SALES, SERVICE, AND USE TAX  
1 35 REFUND &ndash; CONTRACTOR OR SUBCONTRACTOR.

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

2 12 To receive the refund a claim shall be filed by the  
2 13 eligible business or a supporting business with the department  
2 14 of revenue and finance as follows:

2 15 a. The contractor or subcontractor shall state under oath,  
2 16 on forms provided by the department, the amount of the sales  
2 17 of goods, wares, or merchandise or services rendered,  
2 18 furnished, or performed including water, sewer, gas, and  
2 19 electric utility services for use in the economic development  
2 20 area upon which sales or use tax has been paid prior to the  
2 21 project completion, and shall file the forms with the eligible

2 22 business or supporting business before final settlement is  
2 23 made.  
2 24 b. The eligible business or a supporting business shall,  
2 25 not more than six months after project completion, make  
2 26 application to the department for any refund of the amount of  
2 27 the taxes paid pursuant to chapter 422 or 423 upon any goods,  
2 28 wares, or merchandise, or services rendered, furnished, or  
2 29 performed, including water, sewer, gas, and electric utility  
2 30 services. The application shall be made in the manner and  
2 31 upon forms to be provided by the department, and the  
2 32 department shall audit the claim and, if approved, issue a  
2 33 warrant to the eligible business or supporting business in the  
2 34 amount of the sales or use tax which has been paid to the  
2 35 state of Iowa under a contract. A claim filed by the eligible  
3 1 business or a supporting business in accordance with this  
3 2 subsection shall not be denied by reason of a limitation  
3 3 provision set forth in chapter 421, 422, or 423.

3 4 c. A contractor or subcontractor who willfully makes a  
3 5 false report of tax paid under the provisions of this  
3 6 subsection is guilty of a simple misdemeanor and in addition  
3 7 is liable for the payment of the tax and any applicable  
3 8 penalty and interest.

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

3 11 1. The eligible business and a supporting business, to the  
3 12 extent the eligible business or the supporting business is not  
3 13 actively engaged in farming within the economic development  
3 14 area, may acquire, own, and lease land in the economic  
3 15 development area, notwithstanding the provisions of sections  
3 16 9H.4, 9H.5, and 567.3, and shall be exempt from the  
3 17 requirements of section 567.4. The eligible business and  
3 18 supporting business shall comply with the remaining provisions  
3 19 of chapters 9H and 567 to the extent they do not conflict with  
3 20 this subsection.

3 21 2. "Actively engaged in farming" means any of the  
3 22 following:

3 23 a. Inspecting agricultural production activities within  
3 24 the economic development area periodically and furnishing at  
3 25 least half of the value of the tools and paying at least half  
3 26 the direct cost of production.

3 27 b. Regularly and frequently making or taking an important  
3 28 part in making management decisions substantially contributing  
3 29 to or affecting the success of the farm operations within the  
3 30 economic development area.

3 31 c. Performing physical work which significantly  
3 32 contributes to crop or livestock production.

3 33 Sec. 4. NEW SECTION. 15.332A SALES AND USE TAX  
3 34 EXEMPTION.

3 35 An eligible business may claim an exemption from sales and  
4 1 use taxation under section 422.45, subsection 27, for property  
4 2 which is exempt from taxation under section 15.332,  
4 3 notwithstanding the requirements of section 422.45, subsection  
4 4 27, or any other provision of the Code to the contrary.

4 5 Sec. 5. Section [15.335](#), unnumbered paragraph 2, Code 1995,  
4 6 is amended by striking the unnumbered paragraph and inserting  
4 7 in lieu thereof the following:

4 8 Any credit in excess of the tax liability for the taxable  
4 9 year shall be refunded with interest computed under section  
4 10 422.25. In lieu of claiming a refund, a taxpayer may elect to  
4 11 have the overpayment shown on its final, completed return  
4 12 credited to the tax liability for the following year.

4 13 Sec. 6. NEW SECTION. 15.337 WAIVER OF PROGRAM  
4 14 QUALIFICATION REQUIREMENTS.

4 15 A community may request the waiver of the capital  
4 16 investment requirement or the requirement for number of  
4 17 positions created under section 15.329. The department may  
4 18 grant a waiver for good cause shown and approve the program

4 19 application.

4 20 As used in this section, "good cause shown" includes but is  
4 21 not limited to a demonstrated lack of growth in the community,  
4 22 a significant percentage of persons in the community who have  
4 23 incomes at or below the poverty level, community unemployment  
4 24 rate higher than the state average, or an immediate threat  
4 25 posed to the community's workforce due to business downsizing  
4 26 or closure.

4 27 Sec. 7. Section [422.45](#), subsection 27, unnumbered  
4 28 paragraph 1, Code Supplement 1995, is amended to read as  
4 29 follows:

4 30 The gross receipts from the sale or rental

~~, on or after~~

4 31

~~July 1, 1987 or on or after July 1, 1985, in the case of an~~

4 32

~~industry which has entered into an agreement under chapter~~

4 33

~~260E prior to the sale or lease,~~

~~of industrial machinery,~~

4 34 equipment and computers, including replacement parts which are  
4 35 depreciable for state and federal income tax purposes, if the  
5 1 following conditions are met:

5 2 Sec. 8. Section [422.45](#), subsection 27, paragraph b, Code  
5 3 Supplement 1995, is amended to read as follows:

5 4 b. The industrial machinery, equipment and computers must  
5 5 be real property within the scope of section 427A.1,  
5 6 subsection 1, paragraphs "e" or "j"

~~, and must~~

~~For sales~~

5 7 occurring on or after January 1, 1994, the property is not  
5 8 required to be subject to taxation as real property.

~~This~~

5 9

~~paragraph does not apply to machinery and equipment used in~~

5 10

~~the recycling or reprocessing of waste products qualifying for~~

5 11

~~an exemption under paragraph "a".~~

5 12

~~However, the provisions of chapters 404 and 427B which~~

5 13

~~result in the exemption from taxation of property for property~~

5 14

~~tax purposes do not preclude the property from receiving this~~

~~exemption if the property otherwise qualifies.~~

5 16 The gross receipts from the sale or rental of hand tools  
5 17 are not exempt. The gross receipts from the sale or rental of  
5 18 pollution control equipment qualifying under paragraph "a"  
5 19 shall be exempt.

5 20 The gross receipts from the sale or rental of industrial  
5 21 machinery, equipment, and computers, including pollution  
5 22 control equipment, within the scope of section 427A.1,  
5 23 subsection 1, paragraphs "h" and "i", shall not be exempt.

5 24 EXPLANATION

5 25 This bill creates additional benefits which are available  
5 26 to businesses which participate in the new jobs and income  
5 27 program administered by the department of economic development  
5 28 and authorizes the department to waive eligibility  
5 29 requirements in certain circumstances.

5 30 Specifically, the bill provides as follows:

5 31 1. The bill defines the terms, contractor or  
5 32 subcontractor, project completion, supporting business, and  
5 33 economic development area for the purposes of certain benefits  
5 34 under the new jobs and income program.

5 35 2. That the business participating in the new jobs and  
6 1 income program or a supporting business is entitled to a  
6 2 refund of sales, service, and use taxes paid by a contractor  
6 3 or subcontractor in the performance of a written contract  
6 4 relating to the construction or equipping of a facility within  
6 5 an economic development area.

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

6 10 4. That the eligible business may claim as exempt from  
6 11 sales and use taxation, machinery and equipment which is  
6 12 subject to the value-added property tax exemption under the  
6 13 program.

6 14 5. That the research activities credit provided under the  
6 15 program is a refundable credit. In lieu of receiving a refund  
6 16 of corporate taxes paid, the business may have the amount of  
6 17 the overpaid taxes credited against next year's tax liability.

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

6 22 The bill provides that for sales of machinery and equipment  
6 23 occurring on or after July 1, 1994, the machinery and  
6 24 equipment does not have to be taxable as real property to  
6 25 qualify for the exemption from the sales and use tax.

6 26 BACKGROUND STATEMENT

6 27 SUBMITTED BY THE AGENCY

6 28 New section 15.332A allows companies which receive  
6 29 assistance under the new jobs and income program (program) and  
6 30 opt for the complete exemption from property taxation on  
6 31 machinery and equipment to also receive the sales and use tax  
6 32 exemption for the machinery and equipment. This provides  
6 33 program participants the same machinery and equipment tax  
6 34 treatment as other manufacturers in the state have.

6 35 The amendment to section 15.335 allows a company to take  
7 1 the full 13 percent refundable tax credit for qualifying  
7 2 research and development activities under the program. The  
7 3 credit is based on federal tax guidelines. Currently, Iowa  
7 4 law states that only 6.5 percent of the credit is refundable,  
7 5 with the other 6.5 percent carried forward against future  
7 6 corporate tax liability over the next seven years. This  
7 7 provision inhibits Iowa's ability to compete for and attract  
7 8 those innovative companies which otherwise would desire to

7 9 locate and develop their cutting-edge technologies here.  
7 10 Iowa business stands on the threshold of becoming a world  
7 11 leader in the manufacture and export of value-added  
7 12 agricultural products. Iowa farmers stand to gain enormously  
7 13 as these businesses' product lines and markets grow.  
7 14 Agricultural producers will be counted on to provide the raw  
7 15 materials and basic commodities needed in the manufacturing  
7 16 process, thereby significantly enhancing the value of their  
7 17 products and labor. For this opportunity to occur, the state  
7 18 must allow for a tax credit which makes it worthwhile for a  
7 19 business to invest in research and development, technology  
7 20 transfer, and new product development.

7 21 The department strategic plan and the Iowa futures project  
7 22 have both identified technology as a key to Iowa's future  
7 23 growth and prosperity. Allowing for the full 13 percent tax  
7 24 credit provides a strong signal that Iowa is serious about  
7 25 encouraging new research and development and technology  
7 26 transfer within its borders. This initiative will also have a  
7 27 positive effect on capital investment, job creation, graduate  
7 28 retention, product development, and business diversification.  
7 29 It should also revitalize many of Iowa's more mature  
7 30 industries with new products and technological innovations.

7 31 The proposal to allow an eligible business or supporting  
7 32 business to receive a full or partial refund of sales tax on  
7 33 the gross receipts or rental price of property purchased or  
7 34 rented prior to completion of the work on the project under  
7 35 the program provides program participants the same benefits as  
8 1 those businesses in quality jobs enterprise zones. The  
8 2 department can use this benefit as a distinct incentive within  
8 3 the program when competing with other states for qualified  
8 4 large economic development projects.

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

8 27 LSB 3416DP 76

8 28 mk/sc/14.1