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SENATE FILE 2416

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 2202)

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 Vote: Ayes 39 Nays 7 Vote: Ayes 61 Nays 38  
 Approved May 14, 1998

A BILL FOR

1 An Act relating to the replacement of property tax on property  
 2 associated with electricity and natural gas with excise taxes  
 3 associated with electricity and natural gas, establishing a  
 4 statewide property tax on property associated with electricity  
 5 and natural gas, providing for a special utility property tax  
 6 levy or tax credit, providing for the Act's retroactive  
 7 applicability, providing an effective date, and providing  
 8 penalties.

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

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S.F. 2416

1 DIVISION I -- INTRODUCTORY PROVISIONS

2 Section 1. LEGISLATIVE FINDINGS. The general assembly  
3 finds that with the advent of restructuring of the electric  
4 and natural gas utility industry, a competitive environment  
5 will replace the current regulated monopoly environment.  
6 Currently, utility companies are subject to property taxes  
7 which are levied in various amounts with respect to utility  
8 property located in areas serviced by the utility companies.  
9 If the property tax, as currently levied, continues, the  
10 property tax costs in Iowa will become a factor among  
11 competitors in the pricing of electricity and natural gas.  
12 Moreover, non-Iowa located electricity and natural gas  
13 suppliers do not have property in Iowa subject to property tax  
14 and to the extent that they are located in a low property tax  
15 state, such property tax costs would grant to such non-Iowa  
16 suppliers an unfair tax advantage over Iowa-based utility  
17 companies.

18 The general assembly also finds that restructuring may  
19 result in the loss of in-lieu-of-tax transfers from surplus  
20 funds made by a municipal utility to the city. These  
21 transfers take the place of a property tax and are recognized  
22 in this Act as such.

23 Therefore, the general assembly finds that a need exists to  
24 replace the current Iowa property tax system levied on  
25 electric and natural gas utility companies located in Iowa.  
26 However, any replacement tax needs to be revenue neutral so as  
27 not to harm the fiscal stability of local governments which  
28 depend upon such utility property taxes and municipal  
29 transfers, and further, so as to negate tax costs as a factor  
30 in a competitive utility industry environment. Additionally,  
31 such replacement tax must allow fair and competitive prices  
32 for consumers of electric and natural gas services, and  
33 minimize the impact on the cost of such services to consumers.

34 The general assembly, therefore, finds that the replacement  
35 tax should be imposed on the generation, transmission, and

1 delivery of electricity and natural gas. Statewide generation  
2 and transmission taxes are necessary to ensure that in the  
3 event such functions are conducted by stand-alone generation  
4 and transmission companies, such companies will continue to  
5 contribute to the tax base. However, imposition of a single  
6 statewide delivery tax rate would unfairly increase tax costs  
7 for some taxpayers while reducing such costs for others. Such  
8 a result would impede a competitive environment and disrupt  
9 the tax continuity for taxpayers, and has the potential to  
10 unnecessarily increase costs for consumers of gas and  
11 electricity. Therefore, to maintain tax continuity and tax  
12 revenues for local government and to maintain tax continuity  
13 and negate tax costs as a factor in a competitive environment  
14 for taxpayers and consumers, the delivery tax rates should be  
15 fixed by geographic service areas which are designed and  
16 structured to accomplish these goals.

17 The current property tax valuation process for utility  
18 companies is complex and time-consuming to administer. The  
19 replacement tax eases this administrative burden on state  
20 government.

21 Replacing the current system of property taxes levied on  
22 electric and natural gas utility companies located in Iowa  
23 with a system of excise taxes associated with electricity and  
24 natural gas represents a significant change in the method of  
25 taxing electric and natural gas utility companies. Due to the  
26 importance of the revenues generated by these taxes to local  
27 taxing districts, the general assembly finds it desirable to  
28 implement this new system of taxation in advance of the  
29 impending restructuring of the electric and natural gas  
30 industry to ensure that the new system of taxation performs as  
31 intended.

32 SUBCHAPTER 1

33 INTRODUCTORY PROVISIONS

34 Sec. 2. NEW SECTION. 437A.1 CLASSIFICATION OF CHAPTER.

35 The provisions of this chapter are classified and

1 designated as follows:

2 Subchapter 1 Introductory Provisions.

3 Subchapter 2 Generation, Transmission, and Delivery  
4 Taxes.

5 Subchapter 3 Statewide Property Tax.

6 Subchapter 4 General Provisions.

7 Sec. 3. NEW SECTION. 437A.2 PURPOSES.

8 The purposes of this chapter are to replace property taxes  
9 imposed on electric companies, natural gas companies, electric  
10 cooperatives, and municipal utilities with a system of  
11 taxation which will remove tax costs as a factor in a  
12 competitive environment by imposing like generation,  
13 transmission, and delivery taxes on similarly situated  
14 competitors who generate, transmit, or deliver electricity or  
15 natural gas in the same competitive service area, to preserve  
16 revenue neutrality and debt capacity for local governments and  
17 taxpayers, to preserve neutrality in the allocation and cost  
18 impact of any replacement tax among and upon consumers of  
19 electricity and natural gas in this state, and to provide a  
20 system of taxation which reduces existing administrative  
21 burdens on state government.

22 Sec. 4. NEW SECTION. 437A.3 DEFINITIONS.

23 As used in this chapter, unless the context otherwise  
24 requires:

25 1. "Assessed value" means the base year assessed value, as  
26 adjusted by section 437A.19, subsection 2. "Base year  
27 assessed value", for a taxpayer other than an electric  
28 company, natural gas company, or electric cooperative, means  
29 the value attributable to property identified in section  
30 427A.1, subsection 1, paragraph "h", certified by the  
31 department of revenue and finance to the county auditors for  
32 the assessment date of January 1, 1996, and the value  
33 attributable to property identified in section 427A.1 and  
34 section 427B.17, subsection 5, as certified by the local  
35 assessors to the county auditors for the assessment date of



1 January 1, 1996.

2 For taxpayers that are electric companies, natural gas  
3 companies, and electric cooperatives, "base year assessed  
4 value" means the average of the total of these values for each  
5 taxpayer for the assessment dates of January 1, 1992, through  
6 January 1, 1996, allocated among taxing districts in  
7 proportion to the allocation of the taxpayer's January 1,  
8 1997, assessed value among taxing districts. "Base year  
9 assessed value" does not include value attributable to steam-  
10 operating property.

11 2. "Centrally assessed property tax" means property tax  
12 imposed with respect to the value of property determined by  
13 the director pursuant to section 427.1, subsection 2, section  
14 428.29, chapter 437, and chapter 438, Code 1997, and allocated  
15 to electric service and natural gas service provided by  
16 natural gas pipelines permitted pursuant to chapter 479.

17 3. "Consumer" means an end user of electricity or natural  
18 gas used or consumed within this state. "Consumer" includes  
19 any master-metered facility even though the electricity or  
20 natural gas delivered to such facility may ultimately be used  
21 by another person. A person to whom electricity or natural  
22 gas is delivered by a master-metered facility is not a  
23 consumer. A "master-metered facility" means any multi-  
24 occupancy premises where units are separately rented or owned  
25 and where electricity or natural gas is used in centralized  
26 heating, cooling, water-heating, or ventilation systems, where  
27 individual metering is impractical, where the facility is  
28 designated for elderly or handicapped persons and utility  
29 costs constitute part of the operating cost and are not  
30 apportioned to individual units, or where submetering or  
31 resale of service was permitted prior to 1966.

32 4. "Delivery" means the physical transfer of electricity  
33 or natural gas to a consumer. Physical transfer to a consumer  
34 occurs when transportation of electricity or natural gas ends  
35 and such electricity or natural gas becomes available for use

1 or consumption by a consumer.

2 5. "Director" means the director of revenue and finance.

3 6. "Electric company" means a person engaged primarily in  
4 the production, delivery, service, or sales of electric energy  
5 whether formed or organized under the laws of this state or  
6 elsewhere. "Electric company" includes a combination natural  
7 gas company and electric company. "Electric company" does not  
8 include an electric cooperative or a municipal utility.

9 7. "Electric competitive service area" means an electric  
10 service area assigned by the utilities board under chapter 476  
11 as of January 1, 1998, including utility property and  
12 facilities described in section 476.23, subsection 3, which  
13 were owned and served by the electric company, electric  
14 cooperative, or municipal utility serving such area on January  
15 1, 1998.

16 8. "Electric cooperative" means an electric utility  
17 provider formed or organized as an electric cooperative under  
18 the laws of this state or elsewhere. An electric cooperative  
19 shall also include an incorporated city utility provider.  
20 "Generation and transmission electric cooperative" means an  
21 electric cooperative which owns both transmission lines and  
22 property which is used to generate electricity. "Distribution  
23 electric cooperative" means an electric cooperative other than  
24 a generation and transmission electric cooperative or a  
25 municipal electric cooperative association.

26 9. "Electric power generating plant" means a name plate  
27 rated electric power generating plant, which produces electric  
28 energy from other forms of energy, including all taxable land,  
29 buildings, and equipment used in the production of such  
30 electric energy.

31 10. "Incorporated city utility provider" means a  
32 corporation with assets worth one million dollars or more  
33 which has one or more platted villages located within the  
34 territorial limits of the tract of land which it owns, and  
35 which provides electricity to ten thousand or fewer customers.

1 11. "Lease" means a contract between a lessor and lessee  
2 pursuant to which the lessee obtains a present possessory  
3 interest in tangible property without obtaining legal title in  
4 such property. A contract to transmit or deliver electricity  
5 or natural gas using operating property within this state is  
6 not a lease. "Capital lease" means a lease classified as a  
7 capital lease under generally accepted accounting principles.

8 12. "Local amount" means the first forty-four million four  
9 hundred forty-four thousand four hundred forty-five dollars of  
10 the acquisition cost of any major addition which is an  
11 electric power generating plant and the total acquisition cost  
12 of any other major addition.

13 13. "Local taxing district" means a city, county,  
14 community college, school district, or other taxing district,  
15 located in this state and authorized to certify a levy on  
16 property located within such district for the payment of bonds  
17 and interest or other obligations of such district.

18 14. "Low capacity factor electric power generating plant"  
19 means, for any tax year, an electric power generating plant,  
20 with the exception of an electric power generating plant owned  
21 or leased by an electric company, an electric cooperative, or  
22 a municipal utility, which operated during the preceding  
23 calendar year at a net capacity factor of twenty percent or  
24 less. "Net capacity factor" means net actual generation  
25 during the preceding calendar year divided by the product of  
26 nameplate capacity times the number of hours the plant was in  
27 the active state during the preceding calendar year. Upon  
28 commissioning, a plant is in the active state until it is  
29 decommissioned. "Net actual generation" means net electrical  
30 megawatt hours produced by a plant during the preceding  
31 calendar year.

32 15. "Major addition" means any acquisition on or after  
33 January 1, 1997, by a taxpayer, by transfer of ownership,  
34 self-construction, or capital lease of any interest in any of  
35 the following:

1 a. A building in this state where the acquisition cost of  
2 all interests acquired exceeds ten million dollars.

3 b. An electric power generating plant where the  
4 acquisition cost of all interests acquired exceeds ten million  
5 dollars. For purposes of this paragraph, "electric power  
6 generating plant" means each nameplate rated electric power  
7 generating plant owned solely or jointly by any person or  
8 electric power facility financed under the provisions of  
9 chapter 28F in which electrical energy is produced from other  
10 forms of energy, including all equipment used in the  
11 production of such energy through its step-up transformer.

12 c. Natural gas operating property within a local taxing  
13 district where the acquisition cost of all interests acquired  
14 exceeds one million dollars.

15 d. Any operating property in this state by a person not  
16 previously subject to taxation under this chapter.

17 For purposes of this chapter, the acquisition cost of an  
18 asset acquired by capital lease is its capitalized value  
19 determined under generally accepted accounting principles.

20 16. "Municipal electric cooperative association" means an  
21 electric cooperative, the membership of which is composed  
22 entirely of municipal utilities.

23 17. "Municipal utility" means all or part of an electric  
24 light and power plant system or a natural gas system, either  
25 of which is owned by a city, including all land, easements,  
26 rights-of-way, fixtures, equipment, accessories, improvements,  
27 appurtenances, and other property necessary or useful for the  
28 operation of the municipal utility.

29 18. "Natural gas company" means a person that owns,  
30 operates, or is engaged primarily in operating or utilizing  
31 pipelines for the purpose of distributing natural gas to  
32 consumers located within this state, excluding a gas  
33 distributing plant or company located entirely within any city  
34 and not a part of a pipeline transportation company. "Natural  
35 gas company" includes a combination natural gas company and

1 electric company. "Natural gas company" does not include a  
2 municipal utility.

3 19. a. "Natural gas competitive service area" means any  
4 of the fifty-two natural gas competitive service areas  
5 described as follows:

6 (1) Each of the following municipal natural gas  
7 competitive service areas:

8 (a) Taylor county, except for those areas of Taylor county  
9 which are contained within another municipal natural gas  
10 competitive service area as described in this subsection.

11 (b) The city of Brighton in Washington county and the area  
12 within two miles of the city limits plus sections 5, 6, 7, 8,  
13 17, 18, 19, 20, 29, and 30 in Brighton township; sections 19,  
14 30, and 33 in Franklin township; sections 1, 2, 11, 12, 13,  
15 14, 23, 24, 25, and 36 in Dutch Creek township; and sections  
16 25, 26, 35, and 36 in Seventy-Six township.

17 (c) Davis county.

18 (d) The city of Brooklyn in Poweshiek county and the area  
19 within two miles of the city limits.

20 (e) The city of Cascade in Dubuque county and the area  
21 within two miles of the city limits.

22 (f) The city of Cedar Falls in Black Hawk county and the  
23 area within one mile of the city limits, not including any  
24 part of the city of Waterloo.

25 (g) The city of Clearfield in Taylor county and the area  
26 within two miles of the city limits and sections 20, 21, 26,  
27 and 27 of Platte township, Grant township in Taylor county,  
28 and Grant township in Ringgold county.

29 (h) The south half of Carroll county and sections 3 and 4  
30 of Orange township in Guthrie county.

31 (i) Adams county, except those areas of Adams county which  
32 are contained within another municipal natural gas competitive  
33 service area as defined in this subsection.

34 (j) The city of Emmetsburg in Palo Alto county and the  
35 area within two miles of the city limits.

- 1 (k) The city of Everly, in Clay county and the area within  
2 two miles of the city limits.
- 3 (l) The city of Fairbank and the area within two miles of  
4 the city limits plus the area one-quarter mile on either side  
5 of the county line road, Highway 281, from Fairbank to the  
6 intersection of Outer Road and Tenth Street, proceeding  
7 twenty-eight hundredths of a mile north in Buchanan and  
8 Fayette counties.
- 9 (m) The city of Gilmore City in Pocahontas and Humboldt  
10 counties and the area within two miles of the city limits.
- 11 (n) The city of Graettinger in Palo Alto county and the  
12 area within two miles of the city limits.
- 13 (o) The city of Guthrie Center, in Guthrie county and the  
14 area within one mile of the city limits.
- 15 (p) The city of Harlan in Shelby county and the area  
16 within two miles of the city limits.
- 17 (q) The city of Hartley in O'Brien county and the area  
18 within one mile of the city limits, except the eastern one-  
19 half of section four in Omega township.
- 20 (r) The city of Hawarden in Sioux county and the area  
21 within two miles of the city limits.
- 22 (s) The city of Lake Park plus Silver Lake township in  
23 Dickinson county.
- 24 (t) Fayette and New Buda townships in Decatur county.
- 25 (u) The city of Lenox in Taylor county including section 1  
26 of Platte township in Taylor county and the townships of Carl,  
27 Grant, Mercer, Colony, Union, and Prescott in Adams county.
- 28 (v) Grand River township in Wayne county.
- 29 (w) New Hope township in Union county and Monroe township  
30 in Madison county.
- 31 (x) Ewoldt and Eden townships in Carroll county and Iowa  
32 township in Crawford county.
- 33 (y) The city of Montezuma in Poweshiek county and the area  
34 within two miles of the city limits plus Jackson township in  
35 Poweshiek county except the city of Barnes City, Pleasant

- 1 Grove and Monroe townships in Mahaska county except the city  
2 of Barnes City.
- 3 (z) Morning Sun township in Louisa county.
- 4 (aa) Wells and Washington townships in Appanoose county.
- 5 (ab) The city of Osage in Mitchell county and the area  
6 within two miles of the city limits.
- 7 (ac) The city of Prescott in Adams county and the area  
8 within two miles of the city limits.
- 9 (ad) The city of Preston in Jackson county and the area  
10 within two miles of the city limits.
- 11 (ae) The city of Remsen in Plymouth county and the area  
12 within two miles of the city limits.
- 13 (af) The city of Rock Rapids in Lyon county and the area  
14 within two miles of the city limits.
- 15 (ag) The city of Rolfe in Pocahontas county and the area  
16 within two miles of the city limits.
- 17 (ah) The city of Sabula in Jackson county and the area  
18 within two miles of the city limits.
- 19 (ai) The city of Sac City in Sac county and the area  
20 within two miles of the city limits.
- 21 (aj) The city of Sanborn in O'Brien county and the area  
22 within two miles of the city limits.
- 23 (ak) The city of Sioux Center in Sioux county and the area  
24 within two miles of the city limits.
- 25 (al) The city of Tipton in Cedar county and the area  
26 within two miles of the city limits.
- 27 (am) The city of Waukee in Dallas county.
- 28 (an) The city of Wayland plus Jefferson and Trenton  
29 townships in Henry county.
- 30 (ao) Seventy-Six and Lime Creek townships in Washington  
31 county except for those areas of Seventy-Six township which  
32 are contained within another municipal natural gas competitive  
33 service area as defined in this subsection.
- 34 (ap) The city of West Bend in Kossuth and Palo Alto  
35 counties and the area within two miles of the city limits.

- 1 (aq) The city of Whittemore in Kossuth county and the area  
2 within two miles of the city limits.
- 3 (ar) Scott, Canaan, and Wayne townships in Henry county.
- 4 (as) The city of Woodbine in Harrison county and the area  
5 within two miles of the city limits.
- 6 (at) Nishnabotna township in Crawford county.
- 7 (2) The natural gas competitive service area, excluding  
8 any municipal natural gas competitive service area described  
9 in subparagraph (1) and consisting of Sioux county; Plymouth  
10 county; Woodbury county; Ida county; Harrison county; Shelby  
11 county; Audubon county; Palo Alto county; Humboldt county;  
12 Mahaska county; Scott county; Lyon county except Wheeler,  
13 Dale, Liberal, Grant, Midland, and Elgin townships; O'Brien  
14 county except Union, Dale, Summit, Highland, Franklin, and  
15 Center townships; Cherokee county except Cherokee and Pilot  
16 townships; Monona county except Franklin township and the  
17 south half of Ashton township; Pottawattamie county except  
18 Crescent, Hazel Dell, Lake, Garner, Kane, and Lewis townships;  
19 Mills county except Glenwood and Center townships; Montgomery  
20 county except Douglas, Washington, and East townships; Page  
21 county except Valley, Douglas, Nodaway, Nebraska, Harlan, East  
22 River, Amity, and Buchanan townships; Fremont county except  
23 Green, Scott, Sidney, Benton, Washington, and Madison  
24 townships; Brighton and Pleasant townships in Cass county; Sac  
25 county except Clinton, Wall Lake, Coon Valley, Levey, Viola,  
26 and Sac townships; Newell township in Buena Vista county;  
27 Calhoun county except Reading township; Denmark township in  
28 Emmet county; Kossuth county except Eagle, Grant, Springfield,  
29 Hebron, Swea, Harrison, Ledyard, Lincoln, Seneca, Greenwood,  
30 Ramsey, and German townships; Webster county except Roland,  
31 Clay, Burnside, Yell, Webster, Gowrie, Lost Grove, Dayton, and  
32 Hardin townships; Guthrie county except Grant, Thompson, and  
33 Beaver townships; Union township in Union county; Madison  
34 county except Ohio and New Hope townships; Warren county  
35 except Virginia, Squaw, Liberty, and White Breast townships;



1 Cedar, Union, Bluff Creek, and Pleasant townships in Monroe  
2 county; Marion county except Lake Prairie, Knoxville, Summit,  
3 and Union townships; Dallas county except Des Moines and Grant  
4 townships; Polk county except sections 4, 5, 6, 7, 8, 9, 16,  
5 17, and 18 in Lincoln township and the city of Grimes, and  
6 sections 1, 2, 3, 10, 11, 12, 13, 14, and 15 in Union  
7 township; Poweshiek, Washington, Mound Prairie, Des Moines,  
8 Elk Creek, and Fairview townships in Jasper county; Wright  
9 county except Belmont and Pleasant townships; Geneseo township  
10 in Cerro Gordo county; Franklin county except Wisner and Scott  
11 townships and the city of Coulter; Butler county except  
12 Bennezette, Coldwater, Dayton, and Fremont townships; Floyd  
13 county except Rock Grove, Rudd, Rockford, Ulster, Scott, and  
14 Union townships; Branford township in Chickasaw county; Bremer  
15 county except Frederika, LeRoy, Sumner No. 2, Fremont, Dayton,  
16 Maxfield, and Franklin townships; Perry, Washington, Westburg,  
17 and Sumner townships in Buchanan county; Black Hawk county  
18 except Big Creek township; Fremont township in Benton county;  
19 Wapello county except Washington township; Benton and Steady  
20 Run townships in Keokuk county; the city of Barnes City in  
21 Poweshiek county; Iowa township in Washington county; Johnson  
22 county except Fremont township; Linn county except Grant  
23 Spring Grove, Jackson, Boulder, Washington, Monroe township  
24 west and north of Otter Creek and County Home Road, Otter  
25 Creek, Maine, Buffalo, Fayette, and Clinton townships;  
26 Farmington township in Cedar county; Wapsinonoc, Goshen,  
27 Moscow, Wilton, and Fulton townships in Muscatine county; and  
28 Lee county except Des Moines, Montrose, Keokuk, and Jackson  
29 townships.

30 (3) The natural gas competitive service area, excluding  
31 any municipal natural gas competitive service areas described  
32 in subparagraph (1) and consisting of that part of Kossuth  
33 county not described in subparagraph (2); Lincoln and Buffalo  
34 townships in Winnebago county; Worth county except Silver  
35 Lake, Hartland, Bristol, Brookfield, Ferris, and Danville

townships, Cerro Gordo county except Grimes, Pleasant Valley,  
and Dougherty townships; Rock Grove and Rudd townships in  
Iowa county; Eden, Camanche, and Hampshire townships and the  
city of Clinton in Clinton county; and Stacyville and Union  
townships in Mitchell county.

(4) The natural gas competitive service area, excluding  
any municipal natural gas service areas described in  
paragraph (1), and consisting of Franklin township and the  
north half of Ashton township in Monona county; Crescent,  
Ansel Dell, Lake, Garner, Kane, and Lewis townships in  
Polk county; Greenwood and Center townships in Mills  
county; Green, Scott, Sidney, Benton, Washington, and Madison  
townships in Fremont county; Cass, Bear Grove, Union, Noble,  
Eliot, Victoria, Massena, Lincoln, and Grant townships in Cass  
county; Glidden township in Carroll county; Summit township in  
Adair county; Grant township in Guthrie county; Crawford  
county except Nishnabotna township; Clinton, Wall Lake, Coon  
Valley, Levey, Viola, and Sac township in Sac county; Reading  
township in Calhoun county; Marshall, Sherman, Roosevelt,  
Dover, Grant, Lincoln, and Cedar townships in Pocahontas  
county; Union, Dale, Summit, Highland, Franklin, and Center  
townships in O'Brien county; the north half of Clay county  
plus Clay township; Dickinson county; Emmet county except  
Denmark, Armstrong Grove, and Iowa Lake townships; Greene  
county except Bristol, Hardin, Jackson, and Grant townships;  
Boone county except Worth, Colfax, Des Moines, Jackson, Dodge,  
and Harrison townships; Des Moines and Grant townships in  
Dallas county; Roland, Clay, Burnside, Yell, Webster, Gowrie,  
Lost Grove, Dayton, and Newark townships in Webster county;  
Clear Lake, Hamilton, Webster, Freedom, Independence, Cass,  
and Fremont townships in Hamilton county; Ell, Madison, and  
Ellington townships in Hancock county; Winnebago county except  
Lincoln and Buffalo townships; Silver Lake, Hartland, Bristol,  
Brookfield, Fertile, and Danville townships in Worth county;  
Etna township in Hardin county; Lafayette township and the

1 west one-half of Howard township in Story county; the city of  
2 Grimes in Polk county; Independence, Malaka, Mariposa, Hickory  
3 Grove, Rock Creek, Kellogg, Newton, Sherman, Palo Alto, Buena  
4 Vista, and Richland townships in Jasper county; Palermo,  
5 Grant, and Fairfield townships in Grundy county; Bennezette,  
6 Coldwater, Dayton, and Fremont townships in Butler county;  
7 Rockford, Ulster, Scott, and Union townships in Floyd county;  
8 St. Ansgar and Mitchell townships in Mitchell county; Howard  
9 county; Chickasaw county except Branford township; Frederika,  
10 LeRoy, Sumner No. 2, Fremont, Dayton, Maxfield, and Franklin  
11 townships in Bremer county; Big Creek township in Black Hawk  
12 county; Brown township in Linn county; Madison township and  
13 the east half of Buffalo township in Buchanan county; Fayette  
14 county except Harlan, Fremont, Oran, and Jefferson townships;  
15 Winneshiek county; Alamakee county; Clayton county; Delaware  
16 county except Adams and Hazel Green townships; Dubuque county;  
17 Jones county except Rome, Hale, Oxford, and the east half of  
18 Greenfield townships; and Jackson county.

19 (5) The natural gas competitive service area consisting of  
20 Des Moines, Montrose, Keokuk, and Jackson townships in Lee  
21 county.

22 (6) The natural gas competitive service area consisting of  
23 the city of Allerton and the area within two miles of the city  
24 limits.

25 (7) The natural gas competitive service area consisting of  
26 all of Iowa not contained in any of the other natural gas  
27 competitive service areas described in this paragraph.

28 b. "Township" includes any city or part of a city located  
29 within the exterior boundaries of that township.

30 c. References to city limits contained in this subsection  
31 mean those city limits as they existed on January 1, 1998.

32 20. "Operating property" means all property owned by or  
33 leased to an electric company, electric cooperative, municipal  
34 utility, or natural gas company, not otherwise taxed  
35 separately, which is necessary to and without which the

1 company could not perform the activities of an electric  
2 company, electric cooperative, municipal utility, or natural  
3 gas company.

4 21. "Pole miles" means miles measured along the line of  
5 poles, structures, or towers carrying electric conductors  
6 regardless of the number of conductors or circuits carried,  
7 and miles of conduit bank, regardless of number of conduits or  
8 ducts, of all sizes and types, including manholes and  
9 handholes. "Conduit bank" means a length of one or more  
10 underground conduits or ducts, whether or not enclosed in  
11 concrete, designed to contain underground cables, including a  
12 gallery or cable tunnel for power cables.

13 22. "Purchasing member" means a municipal utility which  
14 purchases electricity from a municipal electric cooperative  
15 association of which it is a member.

16 23. "Replacement tax" means the excise tax imposed on the  
17 generation, transmission, delivery, consumption, or use of  
18 electricity or natural gas under sections 437A.4, 437A.5,  
19 437A.6, or 437A.7.

20 24. "Self-generator" means a person, other than an  
21 electric company, natural gas company, electric cooperative,  
22 or municipal utility, who generates, by means of an on-site  
23 facility wholly owned by or leased in its entirety to such  
24 person, electricity solely for its own consumption. A person  
25 who generates electricity which is consumed by any other  
26 person, including any owner, shareholder, member, beneficiary,  
27 partner, or associate of the person who generates electricity,  
28 is not a self-generator. For purposes of this subsection,  
29 "on-site facility" means an electric power generating plant  
30 that is wholly owned by or leased in its entirety to a person  
31 and used to generate electricity solely for consumption by  
32 such person on the same parcel of land on which such plant is  
33 located or on a contiguous parcel of land. For purposes of  
34 this subsection, "parcel of land" includes each separate  
35 parcel of land shown on the tax list, schedule of assessment,

1 or schedule of rate or charge.

2 25. "Statewide amount" means the acquisition cost of any  
3 major addition which is not a local amount.

4 26. "Taxpayer" means an electric company, natural gas  
5 company, electric cooperative, municipal utility, or other  
6 person subject to the replacement tax imposed under section  
7 437A.4, 437A.5, 437A.6, or 437A.7.

8 27. "Tax year" means a calendar year beginning January 1  
9 and ending December 31.

10 28. "Transfer replacement tax" means the tax imposed in a  
11 competitive service area of a municipal utility which replaces  
12 transfers made by the municipal utility in accordance with  
13 section 384.89.

14 29. "Transmission line" means a line, wire, or cable which  
15 is capable of operating at an electric voltage of at least  
16 thirty-four and one-half kilovolts.

17 30. "Utilities board" means the utilities board created in  
18 section 474.1.

19 SUBCHAPTER 2

20 GENERATION, TRANSMISSION, AND DELIVERY TAXES

21 Sec. 5. NEW SECTION. 437A.4 REPLACEMENT TAX IMPOSED ON  
22 DELIVERY OF ELECTRICITY.

23 1. A replacement delivery tax is imposed on every person  
24 who makes a delivery of electricity to a consumer within this  
25 state. The replacement delivery tax imposed by this section  
26 is equal to the sum of the following:

27 a. The number of kilowatt-hours of electricity delivered  
28 to consumers by the taxpayer within each electric competitive  
29 service area during the tax year multiplied by the electric  
30 replacement delivery tax rate in effect for each such electric  
31 competitive service area.

32 b. Where applicable, and in addition to the tax imposed by  
33 paragraph "a", the number of kilowatt-hours of electricity  
34 delivered to consumers by the taxpayer within each electric  
35 competitive service area during the tax year multiplied by the

1 electric transfer replacement tax rate for each such electric  
2 competitive service area.

3 2. If electricity is consumed in this state, whether such  
4 electricity is purchased, transferred, or self-generated, and  
5 the delivery, purchase, transference, or self-generation of  
6 such electricity is not subject to the tax imposed under  
7 subsection 1, a tax is imposed on the consumer at the rates  
8 prescribed under subsection 1.

9 3. Electric replacement delivery tax rates shall be  
10 calculated by the director for each electric competitive  
11 service area as follows:

12 a. The director shall determine the average centrally  
13 assessed property tax liability allocated to electric service  
14 of each taxpayer, other than a municipal utility, principally  
15 serving an electric competitive service area and of each  
16 generation and transmission electric cooperative for the  
17 assessment years 1992 through 1996 based on property tax  
18 payments made. In the case of a municipal utility, the  
19 average centrally assessed property tax liability allocated to  
20 electric service is the centrally assessed property tax  
21 liability of such municipal utility allocated to electric  
22 service for the 1996 assessment year based on property tax  
23 payments made.

24 b. The director shall determine, for each taxpayer, the  
25 number of kilowatt-hours of electricity generated which would  
26 have been subject to taxation under section 437A.6, the number  
27 of pole miles which would have been subject to taxation under  
28 section 437A.7, and the number of kilowatt-hours of  
29 electricity delivered to consumers which would have been  
30 subject to taxation under this section in calendar year 1997,  
31 had such sections been in effect for calendar year 1997.

32 c. The director shall determine the electric generation,  
33 transmission, and delivery tax components of the average  
34 centrally assessed property tax liability determined in  
35 paragraph "a" for each electric competitive service area as

1 follows:

2 (1) The electric generation tax component for an electric  
3 competitive service area shall be computed by multiplying the  
4 tax rate set forth in section 437A.6 by the number of  
5 kilowatt-hours of electricity generated by the taxpayer  
6 principally serving such electric competitive service area  
7 which would have been subject to taxation under section 437A.6  
8 in calendar year 1997, had that section been in effect for  
9 calendar year 1997.

10 (2) The electric transmission tax component for an  
11 electric competitive service area shall be computed by  
12 multiplying the tax rates set forth in section 437A.7 by the  
13 number of pole miles for each line voltage owned or leased by  
14 the taxpayer principally serving such electric competitive  
15 service area which would have been subject to taxation under  
16 section 437A.7 on December 31, 1997, had that section been in  
17 effect for calendar year 1997.

18 (3) The electric delivery tax component for an electric  
19 competitive service area shall be the average centrally  
20 assessed property tax liability allocated to electric service  
21 of the taxpayer principally serving such electric competitive  
22 service area less the electric generation and transmission tax  
23 components computed for such electric competitive service  
24 area.

25 (4) The electric delivery tax component for each electric  
26 competitive service area shall be adjusted, as necessary, to  
27 assign the excess property tax liability of each generation  
28 and transmission electric cooperative to the electric  
29 competitive service areas principally served on January 1,  
30 1998, by its distribution electric cooperative members and by  
31 those municipal utilities which were purchasing members of a  
32 municipal electric cooperative association that is a member of  
33 the generation and transmission electric cooperative. Such  
34 assignment of excess property tax liability of each such  
35 generation and transmission electric cooperative shall be made

1 in proportion to the appropriate wholesale rate charges in  
2 calendar year 1997 to its distribution electric cooperative  
3 members and municipal electric cooperative association members  
4 which purchased electricity from the generation and  
5 transmission electric cooperative. Any amount assignable to a  
6 municipal electric cooperative association shall be reassigned  
7 to the electric competitive service areas served by such  
8 association's purchasing municipal utility members and shall  
9 be allocated among them in proportion to the appropriate  
10 wholesale rate charges in calendar year 1997 by such municipal  
11 electric cooperative association to its purchasing municipal  
12 utility members. For purposes of this subsection, "excess  
13 property tax liability" means the amount by which the average  
14 centrally assessed property tax liability for the assessment  
15 years 1992 through 1996 of a generation and transmission  
16 electric cooperative exceeds the tentative generation and  
17 transmission taxes which would have been imposed on such  
18 generation and transmission electric cooperative under  
19 sections 437A.6 and 437A.7 for calendar year 1997, had such  
20 taxes been in effect for calendar year 1997. An electric  
21 cooperative described in section 437A.7, subsection 2,  
22 paragraph "c", is deemed not to have any excess property tax  
23 liability.

24 d. The director shall determine an electric delivery tax  
25 rate for each electric competitive service area by dividing  
26 the electric delivery tax component for the electric  
27 competitive service area, as adjusted by paragraph "c",  
28 subparagraph (4), by the number of kilowatt-hours delivered by  
29 the taxpayer principally serving the electric competitive  
30 service area to consumers in calendar year 1997, which would  
31 have been subject to taxation under this section if this  
32 section had been in effect for calendar year 1997.

33 4. Municipal electric transfer replacement tax rates shall  
34 be calculated annually by the city council of each city  
35 located within an electric competitive service area served by



1 a municipal utility as of January 1, 1998, by dividing the  
2 average annual dollar amount of electric related transfers  
3 made pursuant to section 384.89 by the municipal utility  
4 serving the electric competitive service area, other than  
5 those transfers declared exempt from the transfer replacement  
6 tax by the city council, plus the municipal transfer  
7 replacement tax received by the municipality, if any, during  
8 the five immediately preceding calendar years by the number of  
9 kilowatt-hours of electricity delivered to consumers in the  
10 electric competitive service area during the immediately  
11 preceding calendar year which were subject to taxation under  
12 this section or which would have been subject to taxation  
13 under this section had it been in effect for such calendar  
14 year. The city council on its own motion, or in the case of a  
15 municipal utility governed by a board of trustees under  
16 chapter 388 upon a resolution of the board of trustees  
17 requesting such action, may declare any transfer or part of  
18 such transfer to be exempt from the transfer replacement tax  
19 under this section. Such rates shall be calculated and  
20 reported to the director on or before August 31 of each tax  
21 year.

22 5. A municipal utility taxpayer is entitled to a credit  
23 against the municipal electric transfer replacement tax equal  
24 to the average amount of electric-related transfers made by  
25 such municipal utility taxpayer under section 384.89, other  
26 than those transfers declared exempt from transfer replacement  
27 tax by the city council, during the preceding five calendar  
28 years.

29 6. The following are not subject to the replacement  
30 delivery tax imposed by subsections 1 and 2:

31 a. Delivery of electricity generated by a low capacity  
32 factor electric power generating plant.

33 b. Delivery of electricity to a city from such city's  
34 municipal utility, provided such electricity is used by the  
35 city for the public purposes of the city.

1 c. Electricity consumed by a state university or  
2 university of science and technology, provided such  
3 electricity was generated by property described in section  
4 427.1, subsection 1.

5 d. Electricity generated and consumed by a self-generator.

6 7. Notwithstanding subsection 1, the electric delivery tax  
7 rate applied to kilowatt-hours of electricity delivered by a  
8 taxpayer to utility property and facilities which are placed  
9 in service on or after January 1, 1998, and are owned by or  
10 leased to and initially served by such taxpayer shall be the  
11 electric delivery tax rate in effect for the electric  
12 competitive service area principally served by such utility  
13 property and facilities even though such utility property and  
14 facilities may be physically located in another electric  
15 competitive service area.

16 8. If for any tax year after calendar year 1997, the total  
17 taxable kilowatt-hours of electricity required to be reported  
18 by taxpayers pursuant to section 437A.8, subsection 1,  
19 paragraphs "a" and "b", with respect to any electric  
20 competitive service area, increases or decreases by more than  
21 the threshold percentage from the average of the base year  
22 amounts for that electric competitive service area during the  
23 immediately preceding five calendar years, the tax rate  
24 imposed under subsection 1, paragraph "a", and subsection 2,  
25 for that tax year shall be recalculated by the director for  
26 that electric competitive service area so that the total of  
27 the replacement electric delivery taxes required to be  
28 reported pursuant to section 437A.8, subsection 1, paragraph  
29 "e", for that electric competitive service area with respect  
30 to the tax imposed under subsection 1, paragraph "a", and  
31 subsection 2, shall be as follows:

32 a. If the number of kilowatt-hours of electricity required  
33 to be reported increased by more than the threshold  
34 percentage, one hundred two percent of such taxes required to  
35 be reported by taxpayers for that electric competitive service

1 area for the immediately preceding tax year.

2 b. If the number of kilowatt-hours of electricity required  
3 to be reported decreased by more than the threshold  
4 percentage, ninety-eight percent of such taxes required to be  
5 reported by taxpayers for that electric competitive service  
6 area for the immediately preceding tax year.

7 For purposes of paragraphs "a" and "b", in computing the  
8 tax rate under subsection 1, paragraph "a", and subsection 2,  
9 for tax year 1998, the director shall use the electric  
10 delivery tax component computed for the electric competitive  
11 service area pursuant to subsection 3, paragraph "c", in lieu  
12 of the taxes required to be reported for that electric  
13 competitive service area for the immediately preceding tax  
14 year.

15 The threshold percentage shall be determined annually and  
16 shall be eight percent for any electric competitive service  
17 area in which the average of the base year amounts for the  
18 preceding five calendar years does not exceed three billion  
19 kilowatt-hours, and ten percent for all other electric  
20 competitive service areas.

21 Any such recalculation of an electric delivery tax rate, if  
22 required, shall be made and the new rate shall be published in  
23 the Iowa administrative bulletin by the director by no later  
24 than May 31 following the tax year. The director shall adjust  
25 the tentative replacement tax imposed by subsection 1,  
26 paragraph "a", and subsection 2 required to be shown on any  
27 affected taxpayer's return pursuant to section 437A.8,  
28 subsection 1, paragraph "e", to reflect the adjusted delivery  
29 tax rate for the tax year, and report such adjustment to the  
30 affected taxpayer on or before June 30 following the tax year.  
31 The new electric delivery tax rate shall apply prospectively,  
32 until such time as further adjustment is required.

33 For purposes of this section, "base year amount" means for  
34 calendar years prior to tax year 1998, the sum of the  
35 kilowatt-hours of electricity delivered to consumers within an

1 electric competitive service area by the taxpayer principally  
2 serving such electric competitive service area which would  
3 have been subject to taxation under this section had this  
4 section been in effect for those years; and for tax years  
5 after calendar year 1997, the taxable kilowatt-hours of  
6 electricity required to be reported by taxpayers pursuant to  
7 section 437A.8, subsection 1, paragraphs "a" and "b", with  
8 respect to any electric competitive service area.

9 9. a. After calendar year 1997, if a municipal electric  
10 cooperative association ceases to purchase electricity from  
11 the generation and transmission electric cooperative from  
12 which it purchased electricity in 1997, and for a period of  
13 one hundred eighty days after such purchases cease, no  
14 municipal utility member of such association purchases  
15 electricity from such generation and transmission electric  
16 cooperative, the excess property tax liability assigned  
17 pursuant to subsection 3, paragraph "c", subparagraph (4), to  
18 the electric competitive service areas principally served by  
19 the municipal utility members on January 1, 1998, shall be  
20 removed from the electric delivery tax component of those  
21 electric competitive service areas and the electric delivery  
22 tax rate for those electric competitive service areas shall be  
23 recalculated to reflect that change.

24 b. After calendar year 1997, if a municipal utility ceases  
25 to be a purchasing member of a municipal electric cooperative  
26 association which purchased electricity in calendar year 1997  
27 from a generation and transmission electric cooperative, and  
28 for a period of one hundred eighty days after the municipal  
29 utility ceases to be a purchasing member of such association  
30 such municipal utility does not purchase electricity from such  
31 generation and transmission electric cooperative, the excess  
32 property tax liability assigned pursuant to subsection 3,  
33 paragraph "c", subparagraph (4), to the electric competitive  
34 service area principally served by the municipal utility on  
35 January 1, 1998, shall be removed from the electric delivery

1 tax component of those electric competitive service areas and  
2 the electric delivery tax rate for those electric competitive  
3 service areas shall be recalculated to reflect that change.

4 c. If a recalculation has previously been made by the  
5 director pursuant to subsection 8 for an electric competitive  
6 service area described in this subsection, the recalculation  
7 required by this subsection shall be made by the director by  
8 modifying the most recent recalculation under subsection 8 to  
9 eliminate the excess property tax liability originally  
10 allocated to such electric competitive service area under  
11 subsection 3, paragraph "c", subparagraph (4).

12 d. Any recalculation required by this subsection shall be  
13 made and the new rate shall be published in the Iowa  
14 administrative bulletin by the director by May 31 of the  
15 calendar year during which the events described in paragraphs  
16 "a" and "b" are reported as provided in section 437A.8,  
17 subsection 1, paragraph "f". The new electric delivery tax  
18 rate shall be effective January 1 of the tax year in which it  
19 is published and shall apply prospectively, until such time as  
20 further adjustment is required.

21 10. The electric delivery tax rate in effect for each  
22 electric competitive service area shall be published by the  
23 director in the Iowa administrative bulletin on or before  
24 November 30, 1998, and annually after that date, during the  
25 last quarter of the tax year.

26 Sec. 6. NEW SECTION. 437A.5 REPLACEMENT TAX IMPOSED ON  
27 DELIVERY OF NATURAL GAS.

28 1. A replacement delivery tax is imposed on every person  
29 who makes a delivery of natural gas to a consumer within this  
30 state. The replacement delivery tax imposed by this section  
31 shall be equal to the sum of the following:

32 a. The number of therms of natural gas delivered to  
33 consumers by the taxpayer within each natural gas competitive  
34 service area during the tax year multiplied by the natural gas  
35 delivery tax rate in effect for each such natural gas

1 competitive service area.

2 b. Where applicable, and in addition to the tax imposed by  
3 paragraph "a", the number of therms of natural gas delivered  
4 to consumers by the taxpayer within each natural gas  
5 competitive service area during the tax year multiplied by the  
6 municipal natural gas transfer replacement tax rate for each  
7 such natural gas competitive service area.

8 2. If natural gas is consumed in this state, whether such  
9 natural gas is purchased or transferred, and the delivery,  
10 purchase, or transference of such natural gas is not subject  
11 to the tax imposed under subsection 1, a tax is imposed on the  
12 consumer at the rates prescribed under subsection 1.

13 3. Natural gas delivery tax rates shall be calculated by  
14 the director for each natural gas competitive service area as  
15 follows:

16 a. The director shall determine the average centrally  
17 assessed property tax liability allocated to natural gas  
18 service of each taxpayer, other than a municipal utility,  
19 principally serving a natural gas competitive service area for  
20 the assessment years 1992 through 1996 based on property tax  
21 payments made. In the case of a municipal utility, the  
22 average centrally assessed property tax liability allocated to  
23 natural gas service is the centrally assessed property tax  
24 liability of such municipal utility allocated to natural gas  
25 service for the 1996 assessment year based on property tax  
26 payments made. For purposes of this subsection, taxpayer does  
27 not include a pipeline company defined in section 479A.2.

28 b. The director shall determine for each taxpayer the  
29 number of therms of natural gas delivered to consumers which  
30 would have been subject to taxation under this section in  
31 calendar year 1997 had this section been in effect for  
32 calendar year 1997.

33 c. The director shall determine a natural gas delivery tax  
34 rate for each natural gas competitive service area by dividing  
35 the average centrally assessed property tax liability

1 allocated to natural gas service of the taxpayer principally  
2 serving the natural gas competitive service area by the number  
3 of therms of natural gas delivered by such taxpayer to  
4 consumers in calendar year 1997 which would have been subject  
5 to taxation under this section had such section been in effect  
6 for calendar year 1997.

7 4. Municipal natural gas transfer replacement tax rates  
8 shall be calculated annually by the city council of each city  
9 located within a natural gas competitive service area served  
10 by a municipal utility as of January 1, 1998, by dividing the  
11 average annual dollar amount of natural gas related transfers  
12 made pursuant to section 384.89 by the municipal utility  
13 serving the natural gas competitive service area, other than  
14 those transfers declared exempt from the transfer replacement  
15 tax by the city council, plus the municipal transfer  
16 replacement tax received by the municipality, if any, during  
17 the five immediately preceding calendar years, by the number  
18 of therms of natural gas delivered to consumers in the natural  
19 gas competitive service area during the immediately preceding  
20 calendar year which were subject to taxation under this  
21 section or which would have been subject to taxation under  
22 this section had it been in effect for such calendar year.  
23 The city council on its own motion, or in the case of a  
24 municipal utility governed by a board of trustees under  
25 chapter 388 upon a resolution of the board of trustees  
26 requesting such action, may declare any transfer or part of  
27 such transfer to be exempt from the transfer replacement tax  
28 under this section. Such rates shall be calculated and  
29 reported to the director on or before August 31 of each tax  
30 year.

31 5. A municipal utility taxpayer is entitled to a credit  
32 against the municipal natural gas transfer replacement tax  
33 equal to the average amount of natural gas related transfers  
34 made by such municipal utility taxpayer under section 384.89,  
35 other than those transfers declared exempt from transfer

1 replacement tax by the city council, during the preceding five  
2 calendar years.

3 6. Notwithstanding subsection 1, the natural gas delivery  
4 tax rate applied to therms of natural gas delivered by a  
5 taxpayer to utility property and facilities which are placed  
6 in service on or after January 1, 1998, and which are owned by  
7 or leased to and initially served by such taxpayer shall be  
8 the natural gas delivery tax rate in effect for the natural  
9 gas competitive service area principally served by such  
10 utility property and facilities even though such utility  
11 property and facilities may be physically located in another  
12 natural gas competitive service area.

13 7. Delivery of natural gas to a city from such city's  
14 municipal utility is not subject to the replacement delivery  
15 tax imposed under subsection 1, paragraph "a", and subsection  
16 2, provided such natural gas is used by the city for the  
17 public purposes of the city.

18 Section 437A.5, subsection 2, does not apply to natural gas  
19 consumed by a person, other than an electric company, natural  
20 gas company, electric cooperative, or municipal utility,  
21 acquired by means of facilities owned by or leased to such  
22 person on January 1, 1998, which were physically attached to  
23 pipelines that are not permitted pursuant to chapter 479 and  
24 used by such person for the purpose of bypassing the local  
25 natural gas company or municipal utility.

26 8. If, for any tax year after calendar year 1997, the  
27 total taxable therms of natural gas required to be reported by  
28 taxpayers pursuant to section 437A.8, subsection 1, paragraphs  
29 "a" and "b", with respect to any natural gas competitive  
30 service area increases or decreases by more than the threshold  
31 percentage from the average of the base year amounts for that  
32 natural gas competitive service area during the immediately  
33 preceding five calendar years, the tax rate imposed under  
34 subsection 1, paragraph "a", and subsection 2 for that tax  
35 year shall be recalculated by the director for that natural



1 gas competitive service area so that the total of the  
2 replacement natural gas delivery taxes required to be reported  
3 pursuant to section 437A.8, subsection 1, paragraph "e", for  
4 that natural gas competitive service area with respect to the  
5 tax imposed under subsection 1, paragraph "a", and subsection  
6 2 shall be as follows:

7 a. If the number of therms of natural gas required to be  
8 reported increased by more than the threshold percentage, one  
9 hundred two percent of such taxes required to be reported by  
10 taxpayers for that natural gas competitive service area for  
11 the immediately preceding tax year.

12 b. If the number of therms of natural gas required to be  
13 reported decreased by more than the threshold percentage,  
14 ninety-eight percent of such taxes required to be reported by  
15 taxpayers for that natural gas competitive service area for  
16 the immediately preceding tax year.

17 c. For purposes of paragraphs "a" and "b", in computing  
18 the tax rate under subsection 1, paragraph "a", and subsection  
19 2 for calendar year 1998, the director shall use the average  
20 centrally assessed property tax liability allocated to natural  
21 gas service computed for the natural gas competitive service  
22 area pursuant to subsection 3, paragraph "a", in lieu of the  
23 taxes required to be reported for that natural gas competitive  
24 service area for the immediately preceding tax year.

25 The threshold percentage shall be determined annually and  
26 shall be eight percent for any natural gas competitive service  
27 area in which the average of the base year amounts for the  
28 preceding five calendar years does not exceed two hundred  
29 fifty million therms, and ten percent for all other natural  
30 gas competitive service areas.

31 Recalculation of a natural gas delivery tax rate, if  
32 required, shall be made and the new rate published in the Iowa  
33 administrative bulletin by the director by no later than May  
34 31 following the tax year. The director shall adjust the  
35 tentative replacement tax imposed by subsection 1, paragraph

1 "a", and subsection 2 required to be shown on any affected  
2 taxpayer's return pursuant to section 437A.8, subsection 1,  
3 paragraph "e", to reflect the adjusted delivery tax rate for  
4 the tax year, and report such adjustment to the affected  
5 taxpayer on or before June 30 following the tax year. The new  
6 natural gas delivery tax rate shall apply prospectively, until  
7 such time as further adjustment is required.

8 For purposes of this subsection, "base year amount" means  
9 for calendar years prior to tax year 1998, the sum of the  
10 therms of natural gas delivered to consumers within a natural  
11 gas competitive service area by the taxpayer principally  
12 serving such natural gas competitive service area which would  
13 have been subject to taxation under this section had this  
14 section been in effect for those years; and for tax years  
15 after calendar year 1997, the taxable therms of natural gas  
16 required to be reported by taxpayers pursuant to section  
17 437A.8, subsection 1, paragraphs "a" and "b", with respect to  
18 any natural gas competitive service area.

19 9. The natural gas delivery tax rate in effect for each  
20 natural gas competitive service area shall be published by the  
21 director in the Iowa administrative bulletin on or before  
22 November 30, 1998, and annually after that date, during the  
23 last quarter of the tax year.

24 Sec. 7. NEW SECTION. 437A.6 REPLACEMENT TAX IMPOSED ON  
25 ELECTRIC GENERATION.

26 1. A replacement generation tax of six hundredths of a  
27 cent per kilowatt-hour of electricity generated within this  
28 state during the tax year is imposed on every person  
29 generating electricity, except electricity generated by the  
30 following:

31 a. A low capacity factor electric power generating plant.

32 b. Facilities owned by or leased to a municipal utility  
33 when devoted to public use and not held for pecuniary profit,  
34 except facilities of a municipally owned electric utility held  
35 under joint ownership or lease and facilities of an electric

1 power facility financed under chapter 28F.

2 c. Wind energy conversion property subject to section  
3 427B.26.

4 d. Methane gas conversion property subject to section  
5 427.1, subsection 29.

6 e. Facilities owned by or leased to a state university or  
7 university of science and technology, to the extent  
8 electricity generated by such facilities is consumed  
9 exclusively by such state university or university of science  
10 and technology.

11 f. On-site facilities wholly owned by or leased in their  
12 entirety to a self-generator.

13 2. For purposes of this section, if a generation facility  
14 is jointly owned or leased, the taxpayer shall compute the  
15 number of kilowatt-hours of electricity subject to the  
16 replacement generation tax by multiplying the taxpayer's  
17 percentage interest in the jointly held generation facility by  
18 the number of kilowatt-hours of electricity generated.

19 Sec. 8. NEW SECTION. 437A.7 REPLACEMENT TAX IMPOSED ON  
20 ELECTRIC TRANSMISSION.

21 1. A replacement transmission tax is imposed on every  
22 person owning or leasing transmission lines within this state  
23 and shall be equal to the sum of all of the following:

24 a. Five hundred fifty dollars per pole mile of  
25 transmission line owned or leased by the taxpayer not  
26 exceeding one hundred kilovolts.

27 b. Three thousand dollars per pole mile of transmission  
28 line owned or leased by the taxpayer greater than one hundred  
29 kilovolts but not exceeding one hundred fifty kilovolts.

30 c. Seven hundred dollars per pole mile of transmission  
31 line owned or leased by the taxpayer greater than one hundred  
32 fifty kilovolts but not exceeding three hundred kilovolts.

33 d. Seven thousand dollars per pole mile of transmission  
34 line owned or leased by the taxpayer greater than three  
35 hundred kilovolts.

1 The replacement transmission tax shall be calculated on the  
2 basis of pole miles of transmission line owned or leased by  
3 the taxpayer on the last day of the tax year.

4 2. The following shall not be subject to the replacement  
5 transmission tax:

6 a. Transmission lines owned by or leased to a municipal  
7 utility when devoted to public use and not for pecuniary  
8 profit, except transmission lines of a municipally owned  
9 electric utility held under joint ownership and transmission  
10 lines of an electric power facility financed under chapter  
11 28F.

12 b. Transmission lines owned by or leased to a lessor when  
13 the lessee or sublessee of such transmission lines is subject  
14 to the replacement transmission tax.

15 c. Any electric cooperative which owns, leases, or owns  
16 and leases in total more than fifty pole miles and less than  
17 seven hundred fifty pole miles of transmission lines in this  
18 state. Chapter 437 shall apply to such electric cooperatives.

19 d. Transmission lines owned by or leased to a state  
20 university or university of science and technology, provided  
21 such transmission lines are used exclusively for the  
22 transmission of electricity consumed by such state university  
23 or university of science and technology.

24 e. Transmission lines owned by or leased to a person,  
25 other than a public utility, for which a franchise is not  
26 required under chapter 478.

27 3. For purposes of this section, if a transmission line is  
28 jointly owned or leased, the taxpayer shall compute the number  
29 of pole miles subject to the replacement transmission tax by  
30 multiplying the taxpayer's percentage interest in the jointly  
31 held transmission lines by the number of pole miles of such  
32 lines.

33 Sec. 9. NEW SECTION. 437A.8 RETURN AND PAYMENT  
34 REQUIREMENTS -- RATE ADJUSTMENTS.

35 1. Each taxpayer, on or before February 28 following a tax

1 year, shall file with the director a return including, but not  
2 limited to, the following information:

3 a. The total taxable kilowatt-hours of electricity  
4 delivered by the taxpayer to consumers within each electric  
5 competitive service area during the tax year, and the total  
6 taxable therms of natural gas delivered by the taxpayer to  
7 consumers within each natural gas competitive service area  
8 during the tax year.

9 b. The total kilowatt-hours of electricity consumed by the  
10 taxpayer within each electric competitive service area during  
11 the tax year subject to tax under section 437A.4, subsection  
12 2, and the total therms of natural gas consumed by the  
13 taxpayer within each natural gas competitive service area  
14 during the tax year subject to tax under section 437A.5,  
15 subsection 2.

16 c. The total taxable kilowatt-hours of electricity  
17 generated by the taxpayer in Iowa during the tax year.

18 d. The total taxable pole miles of electric transmission  
19 lines in Iowa, by kilovolt, owned or leased by the taxpayer on  
20 the last day of the tax year.

21 e. The tentative replacement taxes imposed by section  
22 437A.4, subsection 1, paragraph "a", section 437A.4,  
23 subsection 2, section 437A.5, subsection 1, paragraph "a",  
24 section 437A.5, subsection 2, and sections 437A.6 and 437A.7,  
25 due for the tax year.

26 f. For purposes of a municipal utility which is a member  
27 of a municipal electric cooperative association, the  
28 occurrence on or before September 1 of the preceding calendar  
29 year of an event described in section 437A.4, subsection 9,  
30 paragraph "a" or "b", and the date on which the one-hundred-  
31 eighty-day requirement under such paragraph was met.

32 2. Each taxpayer subject to a municipal transfer  
33 replacement tax, on or before February 28 following a tax  
34 year, shall file with the chief financial officer of each city  
35 located within an electric or natural gas competitive service

1 area served by a municipal utility as of January 1, 1998, a  
2 return including, but not limited to, the following  
3 information:

4 a. The total taxable kilowatt-hours of electricity  
5 delivered by the taxpayer within each electric competitive  
6 service area described in section 437A.4, subsection 4, during  
7 the tax year and the total taxable therms of natural gas  
8 delivered by the taxpayer within each natural gas competitive  
9 service area described in section 437A.5, subsection 4, during  
10 the tax year.

11 b. For a municipal utility taxpayer, the total transfers  
12 made by the taxpayer under section 384.89 within each  
13 competitive service area during the preceding calendar year,  
14 allocated between electric-related transfers and natural gas-  
15 related transfers and total credits described in sections  
16 437A.4, subsection 5, and 437A.5, subsection 5.

17 c. The transfer replacement taxes imposed by sections  
18 437A.4, subsection 1, paragraph "b", and 437A.5, subsection 1,  
19 paragraph "b", due for the tax year.

20 3. A return shall be signed by an officer, or other person  
21 duly authorized by the taxpayer, and must be certified as  
22 correct and in accordance with forms and rules prescribed by  
23 the director in the case of a return filed pursuant to  
24 subsection 1, and in accordance with forms and rules  
25 prescribed by the chief financial officer of the city in the  
26 case of a return filed pursuant to subsection 2.

27 4. At the time of filing the return required by subsection  
28 1 with the director, the taxpayer shall calculate the  
29 tentative replacement tax due for the tax year. The director  
30 shall compute any adjustments to the replacement tax required  
31 by subsection 7 and by section 437A.4, subsection 8, and  
32 section 437A.5, subsection 8, and notify the taxpayer of any  
33 such adjustments in accordance with the requirements of such  
34 provisions. The director and the department of management  
35 shall compute the allocation of replacement taxes among local

1 taxing districts and report such allocations to county  
2 treasurers pursuant to section 437A.15. Based on such  
3 allocations, the treasurer of each county shall notify each  
4 taxpayer on or before August 31 following a tax year of its  
5 replacement tax obligation to the county treasurer. On or  
6 before September 30, 1999, and on or before September 30 of  
7 each subsequent year, the taxpayer shall remit to the county  
8 treasurer of each county to which such replacement tax is  
9 allocated pursuant to section 437A.15, one-half of the  
10 replacement tax so allocated, and on or before the succeeding  
11 March 31, the taxpayer shall remit to the county treasurers  
12 the remaining replacement tax so allocated. If notification  
13 of a taxpayer's replacement tax obligation is not mailed by a  
14 county treasurer on or before August 31 following a tax year,  
15 such taxpayer shall have thirty days from the date the  
16 notification is mailed to remit one-half of the replacement  
17 tax otherwise required by this subsection to be remitted to  
18 such county treasurer on or before September 30. If a  
19 taxpayer fails to timely remit replacement taxes as provided  
20 in this subsection, the county treasurer of each affected  
21 county shall notify the director of such failure.

22 5. At the time of filing the return required by subsection  
23 2, the taxpayer shall calculate the municipal transfer  
24 replacement tax due for the tax year. Municipal transfer  
25 replacement taxes shall be paid to the chief financial officer  
26 of the city to which the taxes are allocated at such time and  
27 place as directed by the city council.

28 6. Notwithstanding subsections 1 through 5, a taxpayer  
29 shall not be required to file a return otherwise required by  
30 this section or remit any replacement tax for any tax year in  
31 which the taxpayer's replacement tax liability before credits  
32 is three hundred dollars or less.

33 7. Following the determination of electric and natural gas  
34 delivery tax rates by the director pursuant to section 437A.4,  
35 subsection 3, and section 437A.5, subsection 3, if an

1 adjustment resulting from a taxpayer appeal is made to taxes  
2 levied and paid by a taxpayer with respect to any of the  
3 assessment years 1992 through 1996 used in determining such  
4 rates, the director shall recalculate the delivery tax rate  
5 for any affected electric or natural gas competitive service  
6 area to reflect the impact of such adjustment as if such  
7 adjustment had been reflected in the initial determination of  
8 average centrally assessed property tax liability allocated to  
9 electric or natural gas service pursuant to section 437A.4,  
10 subsection 3, paragraph "a", and section 437A.5, subsection 3,  
11 paragraph "a". Rate recalculations shall be made and  
12 published in the Iowa administrative bulletin by the director  
13 on or before March 31 following the calendar year in which a  
14 final determination of the adjustment is made. Taxpayers  
15 shall report to the director any increase or decrease in the  
16 tentative replacement tax required to be shown to be due  
17 pursuant to subsection 1, paragraph "e", for any tax year with  
18 the return for the year in which the recalculated tax rates  
19 which gave rise to the adjustment are published in the Iowa  
20 administrative bulletin. The director and the department of  
21 management shall redetermine the allocation of replacement  
22 taxes pursuant to section 437A.15 for each affected tax year.  
23 If a taxpayer has overpaid replacement taxes, the overpayment  
24 shall be reported by the director to such taxpayer and to the  
25 appropriate county treasurers and shall be a credit against  
26 the replacement taxes owed by such taxpayer for the year in  
27 which the recalculated rates which gave rise to the  
28 overpayment are published in the Iowa administrative bulletin.  
29 If a taxpayer has overpaid centrally assessed property taxes  
30 for assessment years prior to tax year 1998, such overpayment  
31 shall be a credit against replacement taxes owed by such  
32 taxpayer for the year in which the overpayment is determined.  
33 Unused credits may be carried forward and used to reduce  
34 future replacement tax liabilities until exhausted.

35 Sec. 10. NEW SECTION. 437A.9 FAILURE TO FILE RETURN --



## 1 INCORRECT RETURN.

2 1. As soon as practicable after a return required by  
3 section 437A.8, subsection 1, is filed, and in any event  
4 within three years after such return is filed, the director  
5 shall examine the return, determine the tax due if the return  
6 is found to be incorrect, and give notice to the taxpayer of  
7 the determination as provided in subsection 2. The period for  
8 the examination and determination of the correct amount of tax  
9 is unlimited in the case of a false or fraudulent return made  
10 with the intent to evade any tax or in the case of a failure  
11 to file a return. The chief financial officer of a city shall  
12 have the same authority as is granted to the director under  
13 this section with respect to a return filed pursuant to  
14 section 437A.8, subsection 2.

15 2. If a return required by section 437.8, subsection 1, is  
16 not filed, or if such return when filed is incorrect or  
17 insufficient and the taxpayer fails to file a corrected or  
18 sufficient return within twenty days after such return is  
19 required by notice from the director, the director shall  
20 determine the amount of tax due from information as the  
21 director may be able to obtain and, if necessary, may estimate  
22 the tax due on the basis of external indices. The director  
23 shall give notice of the determination to the taxpayer liable  
24 for the tax and to the county treasurers to whom the tax is  
25 owed. The determination shall fix the tax unless the taxpayer  
26 against whom it is levied, within sixty days after notice of  
27 the determination, applies to the director for a hearing. At  
28 the hearing evidence may be offered to support the  
29 determination or to prove that it is incorrect. After the  
30 hearing the director shall give notice of the decision to the  
31 person liable for the tax and to the county treasurers to whom  
32 the tax is owed.

33 3. The three-year period of limitation provided in  
34 subsection 1 may be extended by the taxpayer by signing a  
35 waiver agreement form provided by the department. The

1 agreement shall stipulate the period of extension and the tax  
2 period to which the extension applies. The agreement shall  
3 also provide that a claim for refund may be filed by the  
4 taxpayer at any time during the period of extension.

5 Sec. 11. NEW SECTION. 437A.10 JUDICIAL REVIEW.

6 1. Judicial review of the actions of the director may be  
7 sought pursuant to chapter 17A, the Iowa administrative  
8 procedure Act.

9 2. For cause and upon a showing by the director that  
10 collection of the tax in dispute is in doubt, the court may  
11 order the petitioner to file with the clerk of the district  
12 court a bond for the use of the appropriate local taxing  
13 districts, with sureties approved by the clerk of the district  
14 court, in the amount of the tax appealed from, conditioned  
15 upon the performance by the petitioner of any orders of the  
16 court.

17 3. An appeal may be taken by the taxpayer or the director  
18 to the supreme court irrespective of the amount involved.

19 4. A person aggrieved by a decision of the chief financial  
20 officer of a city under this chapter may seek review by writ  
21 of certiorari within thirty days of the decision sought to be  
22 reviewed.

23 Sec. 12. NEW SECTION. 437A.11 LIEN -- ACTIONS  
24 AUTHORIZED.

25 Whenever a taxpayer who is liable to pay a tax imposed by  
26 subchapter 2 refuses or neglects to pay such tax, the amount,  
27 including any interest, penalty, or addition to such tax,  
28 together with the costs that may accrue, shall be a lien in  
29 favor of the chief financial officer of the city or the county  
30 treasurer to which the tax is owed upon all property and  
31 rights to property, whether real or personal, belonging to the  
32 taxpayer. The lien shall be prior to and superior over all  
33 subsequent liens upon any personal property within this state,  
34 or right to such personal property, belonging to the taxpayer,  
35 without the necessity of recording the lien. The requirement

1 for recording, as applied to the tax imposed by subchapter 2,  
2 shall apply only to a lien upon real property. The lien may  
3 be preserved against subsequent mortgagees, purchasers, or  
4 judgment creditors, for value and without notice of the lien,  
5 on any real property situated in a county, by the county  
6 treasurer to which replacement tax is owed by filing with the  
7 recorder of the county in which the real property is located a  
8 notice of the lien. For purposes of the replacement tax  
9 collected by a city, the lien may be preserved against  
10 subsequent mortgagees, purchasers, or judgment creditors, for  
11 value and without notice of the lien, on any real property  
12 situated in the county, by the chief financial officer of the  
13 city to which replacement tax is owed by filing with the  
14 recorder of the county in which the real property is located a  
15 notice of the lien.

16 The county recorder of each county shall prepare and keep  
17 in the recorder's office a book to be known as the index of  
18 replacement tax liens, so ruled as to show in appropriate  
19 columns under the names of taxpayers arranged alphabetically,  
20 all of the following:

- 21 1. The name of the taxpayer.
- 22 2. The name of the county treasurer and county or the name  
23 of the chief financial officer and city as claimant.
- 24 3. Time the notice of lien was received.
- 25 4. Date of notice.
- 26 5. Amount of lien then due.
- 27 6. Date of assessment.
- 28 7. Date when the lien is satisfied.

29 The recorder shall endorse on each notice of lien the day,  
30 hour, and minute when received and preserve such notice, and  
31 shall promptly record the lien in the manner provided for  
32 recording real estate mortgages. The lien is effective from  
33 the time of the indexing of the lien.

34 The county treasurer or chief financial officer of the city  
35 shall pay a recording fee as provided in section 331.604, for

1 the recording of the lien, or for its satisfaction.

2 Upon the payment of the replacement tax as to which a  
3 county treasurer or chief financial officer of a city has  
4 filed notice with a county recorder, the county treasurer or  
5 chief financial officer of the city shall promptly file with  
6 the recorder a satisfaction of the replacement tax. The  
7 recorder shall enter the satisfaction on the notice on file in  
8 the recorder's office and indicate that fact on the index.

9 Section 445.3 applies with respect to the replacement taxes  
10 and penalties imposed by this chapter, except for the  
11 provisions limiting the commencement of actions.

12 Sec. 13. NEW SECTION. 437A.12 SERVICE OF NOTICE.

13 1. A notice authorized or required under this chapter may  
14 be given by mailing the notice to the taxpayer, addressed to  
15 the taxpayer at the address given in the last return filed by  
16 the taxpayer pursuant to this chapter, or if no return has  
17 been filed, then to the most recent address of the taxpayer  
18 obtainable. The mailing of the notice is presumptive evidence  
19 of the receipt of the notice by the taxpayer to whom the  
20 notice is addressed. A period of time within which some  
21 action must be taken for which notice is provided under this  
22 section commences to run from the date of mailing of the  
23 notice.

24 2. There is no limitation for the enforcement of a civil  
25 remedy pursuant to any proceeding or action taken to levy,  
26 appraise, assess, determine, or enforce the collection of any  
27 tax or penalty due under this chapter.

28 Sec. 14. NEW SECTION. 437A.13 PENALTIES -- OFFENSES --  
29 LIMITATION.

30 1. A taxpayer is subject to the penalty provisions in  
31 section 421.27 with respect to any replacement tax due under  
32 this chapter. A taxpayer shall also pay interest on the  
33 delinquent replacement tax at the rate in effect under section  
34 421.7 for each month computed from the date the payment was  
35 due, counting each fraction of a month as an entire month.

1 The penalty and interest shall be paid to the county  
2 treasurer, or in the case of penalty and interest associated  
3 with a municipal transfer replacement tax to the city  
4 financial officer, and shall be disposed of in the same manner  
5 as other receipts under this chapter. Unpaid penalties and  
6 interest may be enforced in the same manner as provided for  
7 unpaid replacement tax under this chapter.

8 2. A taxpayer, or officer, member, or employee of the  
9 taxpayer, who willfully attempts to evade the replacement tax  
10 imposed or the payment of the replacement tax is guilty of a  
11 class "D" felony.

12 3. The issuance of a certificate by the director or a  
13 county treasurer stating that a replacement tax has not been  
14 paid, that a return has not been filed, or that information  
15 has not been supplied pursuant to this chapter is prima facie  
16 evidence of such failure.

17 4. A taxpayer, or officer, member, or employee of the  
18 taxpayer, required to pay a replacement tax, or required to  
19 make, sign, or file an annual return or supplemental return,  
20 who willfully makes a false or fraudulent annual return, or  
21 who willfully fails to pay at least ninety percent of the  
22 replacement tax or willfully fails to make, sign, or file the  
23 annual return, as required, is guilty of a fraudulent  
24 practice.

25 5. For purposes of determining the place of trial for a  
26 violation of this section, the situs of an offense is in the  
27 county of the residence of the taxpayer, officer, member, or  
28 employee of the taxpayer charged with the offense, unless the  
29 taxpayer, officer, member, or employee of the taxpayer is a  
30 nonresident of this state or the residence cannot be  
31 established, in which event the situs of the offense is in  
32 Polk county.

33 6. Prosecution for an offense specified in this section  
34 shall be commenced within six years after the commission of  
35 the offense.

1     Sec. 15. NEW SECTION. 437A.14 CORRECTION OF ERRORS --  
2 REFUNDS OR CREDITS OF REPLACEMENT TAX PAID -- INFORMATION  
3 CONFIDENTIAL -- PENALTY.

4     1. a. If an amount of replacement tax, penalty, or  
5 interest has been paid which was not due under this chapter, a  
6 city's chief financial officer or county treasurer to whom  
7 such erroneous payment was made shall do one of the following:

8       (1) Credit the amount of the erroneous payment against any  
9 replacement tax due, or to become due, from the taxpayer on  
10 the books of the city or county.

11       (2) Refund the amount of the erroneous payment to the  
12 taxpayer.

13     b. Claims for refund or credit of replacement taxes paid  
14 shall be filed with the director. A claim for refund or  
15 credit that is not filed with the director within three years  
16 after the replacement tax payment upon which a refund or  
17 credit is claimed became due, or one year after the  
18 replacement tax payment was made, whichever time is later,  
19 shall not be allowed. A claim for refund or credit of tax  
20 alleged to be unconstitutional not filed with the director  
21 within ninety days after the replacement tax payment upon  
22 which a refund or credit is claimed became due shall not be  
23 allowed. As a precondition for claiming a refund or credit of  
24 alleged unconstitutional taxes, such taxes must be paid under  
25 written protest which specifies the particulars of the alleged  
26 unconstitutionality. Claims for refund or credit may only be  
27 made by, and refunds or credits may only be made to, the  
28 person responsible for paying the replacement tax, or such  
29 person's successors. The director shall notify affected  
30 county treasurers of the acceptance or denial of any refund  
31 claim. Section 421.10 applies to claims denied by the  
32 director.

33     2. It is unlawful for any present or former officer or  
34 employee of the state to divulge or to make known in any  
35 manner to any person the kilowatt-hours of electricity or

1 therms of natural gas delivered by a taxpayer in a competitive  
2 service area disclosed on a tax return, return information, or  
3 investigative or audit information. A person who violates  
4 this section is guilty of a serious misdemeanor. If the  
5 offender is an officer or employee of the state, such person,  
6 in addition to any other penalty, shall also be dismissed from  
7 office or discharged from employment. This section does not  
8 prohibit turning over to duly authorized officers of the  
9 United States or tax officials of other states such kilowatt-  
10 hours or therms pursuant to agreement between the director and  
11 the secretary of the treasury of the United States or the  
12 secretary's delegate or pursuant to a reciprocal agreement  
13 with another state.

14 3. Unless otherwise expressly permitted by a section  
15 referencing this chapter, the kilowatt-hours of electricity or  
16 therms of natural gas delivered by a taxpayer in a competitive  
17 service area shall not be divulged to any person or entity,  
18 other than the taxpayer, the department, or the internal  
19 revenue service for use in a matter unrelated to tax  
20 administration.

21 This prohibition precludes persons or entities other than  
22 the taxpayer, the department, or the internal revenue service  
23 from obtaining such information from the department. A  
24 subpoena, order, or process which requires the department to  
25 produce such information to a person or entity, other than the  
26 taxpayer, the department, or internal revenue service, for use  
27 in a nontax proceeding is void.

28 4. Notwithstanding subsections 2 and 3, the chief  
29 financial officer of any local taxing district and any  
30 designee of such officer shall have access to any computations  
31 made by the director pursuant to the provisions of this  
32 chapter, and any tax return or other information used by the  
33 director in making such computations, which affect the  
34 replacement tax owed by any such taxpayer.

35 Notwithstanding this section, providing information

1 relating to the kilowatt-hours of electricity or therms of  
2 natural gas delivered by a taxpayer in a competitive service  
3 area to the task force established in section 437A.15,  
4 subsection 7, or to the study committee established in section  
5 476.6, subsection 23, is not a violation of this section.

6 5. Local taxing district employees are deemed to be  
7 officers and employees of the state for purposes of subsection  
8 2.

9 6. Claims for refund or credit of municipal transfer  
10 replacement tax shall be filed with the appropriate city's  
11 chief financial officer. Subsection 1 applies with respect to  
12 the transfer replacement tax and the city's chief financial  
13 officer shall have the same authority as is granted to the  
14 director under this section with respect to a return filed  
15 pursuant to section 437A.8, subsection 2.

16 7. Claims for refund or credit of special utility property  
17 tax levies shall be filed with the appropriate county  
18 treasurer. Subsection 1 applies with respect to the special  
19 utility property tax levy and the county treasurer shall have  
20 the same authority as is granted to the director under this  
21 section.

22 Sec. 16. NEW SECTION. 437A.15 ALLOCATION OF REVENUE.

23 1. The director and the department of management shall  
24 compute the allocation of all replacement tax revenues other  
25 than transfer replacement tax revenues among the local taxing  
26 districts in accordance with this section and shall report  
27 such allocation by local taxing districts to the county  
28 treasurers on or before August 15 following a tax year.

29 2. The director shall determine and report to the  
30 department of management the total replacement taxes to be  
31 collected from each taxpayer for the tax year on or before  
32 July 30 following such tax year.

33 3. All replacement taxes owed by a taxpayer shall be  
34 allocated among the local taxing districts in which such  
35 taxpayer's property is located in accordance with a general



1 allocation formula determined by the department of management  
2 on the basis of general property tax equivalents. General  
3 property tax equivalents shall be determined by applying the  
4 levy rates reported by each local taxing district to the  
5 department of management on or before June 30 following a tax  
6 year to the assessed value of taxpayer property allocated to  
7 each such local taxing district as adjusted and reported to  
8 the department of management in such tax year by the director  
9 pursuant to section 437A.20, subsection 2. The general  
10 allocation formula for a tax year shall allocate to each local  
11 taxing district that portion of the replacement taxes owed by  
12 each taxpayer which bears the same ratio as such taxpayer's  
13 general property tax equivalents for each local taxing  
14 district bears to such taxpayer's total general property tax  
15 equivalents for all local taxing districts in Iowa.

16 4. On or before August 31 following tax years 1998, 1999,  
17 and 2000, each county treasurer shall compute a special  
18 utility property tax levy or tax credit for each taxpayer for  
19 which a replacement tax liability for each such tax year is  
20 reported to the county treasurer pursuant to subsection 1, and  
21 shall notify the taxpayer of the amount of such tax levy or  
22 tax credit. The amount of the special utility property tax  
23 levy or credit shall be determined for each taxpayer by the  
24 county treasurer by comparing the taxpayer's total replacement  
25 tax liability allocated to taxing districts in the county  
26 pursuant to this section with the anticipated tax revenues  
27 from the taxpayer for all taxing districts in the county. If  
28 the taxpayer's total replacement tax liability allocated to  
29 taxing districts in the county is less than the anticipated  
30 tax revenues from the taxpayer for all taxing districts in the  
31 county, the county treasurer shall levy a special utility  
32 property tax equal to the shortfall which shall be added to  
33 and collected with the replacement tax owed by the taxpayer to  
34 the county treasurer for the tax year pursuant to section  
35 437A.8, subsection 4. If the taxpayer's total replacement tax

1 liability allocated to taxing districts in the county exceeds  
2 the anticipated tax revenues from the taxpayer for all taxing  
3 districts in the county, the county treasurer shall issue a  
4 credit to the taxpayer which shall be applied to reduce the  
5 taxpayer's replacement tax liability to the county treasurer  
6 for the tax year. If the taxpayer's total replacement tax  
7 liability allocated to taxing districts in the county equals  
8 the anticipated tax revenues from the taxpayer for all taxing  
9 districts in the county, no levy or credit is required.

10 Replacement tax liability for purposes of this subsection  
11 means replacement tax liability before credits allowed by  
12 section 437A.8, subsection 7. A recalculation of a special  
13 utility property tax levy or credit shall not be made as a  
14 result of a subsequent recalculation of replacement tax  
15 liability under section 437A.8, subsection 7, or adjustment to  
16 assessed value under section 437A.19, subsection 2, paragraph  
17 "f". "Anticipated tax revenues from a taxpayer" means the  
18 product of the total levy rates imposed by the taxing  
19 districts and the value of taxpayer property allocated to the  
20 taxing districts and reported to the county auditor during the  
21 tax year pursuant to section 437A.19, subsection 2. Special  
22 utility property tax levies and credits shall be treated as  
23 replacement taxes for purposes of section 437A.11.

24 5. The replacement tax, as adjusted by any special utility  
25 property tax levy or credit and remitted to a county treasurer  
26 by each taxpayer, shall be treated as a property tax when  
27 received and shall be disposed of by the county treasurer as  
28 taxes on real estate. Notwithstanding the allocation  
29 provisions of this section, nothing in this section shall deny  
30 any affected taxing entity, as defined in section 403.17,  
31 subsection 1, which has enacted an ordinance or entered into  
32 an agreement for the division and allocation of taxes  
33 authorized under section 403.19 and under which ordinance or  
34 agreement the taxes collected in respect of properties owned  
35 by any of the taxpayers remitting replacement taxes pursuant

1 to the provisions of this chapter are being divided and  
2 allocated, the right to receive its share of the replacement  
3 tax revenues collected for any year which would otherwise be  
4 paid to such affected taxing entity under the terms of any  
5 such ordinance or agreement had this chapter not been enacted.  
6 To the extent that adjustment must be made to the allocation  
7 described in this section to give effect to the terms of such  
8 ordinances or agreements, the department of management and the  
9 county treasurer shall make such adjustments.

10 6. In lieu of the adjustment provided for in subsection 5,  
11 the assessed value of property described in section 403.19,  
12 subsection 1, may be reduced by the city or county by the  
13 amount of the taxable value of the property described in  
14 section 437A.16 included in such area on January 1, 1996,  
15 pursuant to amendment of the ordinance adopted by such city or  
16 county pursuant to section 403.19.

17 7. On or before January 1, 1999, the department of  
18 management, in consultation with the department of revenue and  
19 finance, shall initiate and coordinate the establishment of a  
20 task force and provide staffing assistance to the task force.  
21 It is the intent of the general assembly that the task force  
22 include representatives of the department of management,  
23 department of revenue and finance, electric companies, natural  
24 gas companies, municipal utilities, electric cooperatives,  
25 counties, cities, school boards, and industrial, commercial,  
26 and residential consumers, and other appropriate stakeholders.

27 The task force shall study the effects of the replacement  
28 tax on local taxing districts and taxpayers and the department  
29 of management shall report to the general assembly by January  
30 1 of each year through January 1, 2002, the results of the  
31 study.

32 Sec. 17. NEW SECTION. 437A.16 ASSESSMENT EXCLUSIVE.

33 All operating property and all other property that is  
34 primarily and directly used in the production, generation,  
35 transmission, or delivery of electricity or natural gas owned

1 by or leased to a person subject to taxation under this  
2 chapter is exempt from taxation except as otherwise provided  
3 by this chapter. This exemption shall not extend to taxes  
4 imposed under chapters 437, 438, and 468, taxpayers described  
5 in section 437A.8, subsection 6, or facilities or property  
6 described in section 437A.6, subsection 1, paragraphs "a"  
7 through "f", and section 437A.7, subsection 2.

8 Sec. 18. NEW SECTION. 437A.17 STATUTES APPLICABLE --  
9 RATE CALCULATIONS.

10 1. The director shall administer and enforce the  
11 replacement tax imposed by this chapter in the same manner as  
12 provided in and subject to sections 422.68, 422.70, 422.71,  
13 and 422.75.

14 2. The calculation of tax rates and adjustments to such  
15 rates by the director pursuant to this chapter do not  
16 constitute rulemaking subject to the provisions of chapter  
17 17A.

18 SUBCHAPTER 3

19 STATEWIDE PROPERTY TAX

20 Sec. 19. NEW SECTION. 437A.18 TAX IMPOSITION.

21 An annual statewide property tax of three cents per one  
22 thousand dollars of assessed value is imposed upon all  
23 property described in section 437A.16 on the assessment date  
24 of January 1.

25 Sec. 20. NEW SECTION. 437A.19 ADJUSTMENT TO ASSESSED  
26 VALUE -- REPORTING REQUIREMENTS.

27 1. a. A taxpayer whose property is subject to the  
28 statewide property tax shall report to the director by July 1,  
29 1998, and by May 1 of each subsequent tax year, on forms  
30 prescribed by the director, the book value, as of the  
31 beginning and end of the preceding calendar year, of all of  
32 the following:

33 (1) The local amount of any major addition by local taxing  
34 district.

35 (2) The statewide amount of any major addition without

1 notation of location.

2 (3) Any building in Iowa at acquisition cost of more than  
3 ten million dollars which was originally placed in service by  
4 the taxpayer prior to January 1, 1997, and which was  
5 transferred or disposed of in the preceding calendar year,  
6 without notation of location.

7 (4) Any electric power generating plant in Iowa at  
8 acquisition cost of more than ten million dollars which was  
9 originally placed in service by the taxpayer prior to January  
10 1, 1997, and which was transferred or disposed of in the  
11 preceding calendar year, without notation of location.

12 (5) All other taxpayer property without notation of  
13 location.

14 (6) The local amount of any major addition eligible for  
15 the urban revitalization exemption provided for in chapter  
16 404, by situs.

17 b. For purposes of this section:

18 (1) "Book value" means acquisition cost less accumulated  
19 depreciation determined under generally accepted accounting  
20 principles.

21 (2) "Taxpayer property" means property described in  
22 section 437A.16.

23 (3) "To dispose of" means to sell, abandon, decommission,  
24 or retire an asset.

25 (4) "Transfer" means a transaction which results in a  
26 change of ownership of taxpayer property and includes a  
27 capital lease transaction.

28 c. For purposes of this subsection, "taxpayer" includes a  
29 person who would have been a taxpayer in calendar year 1997  
30 had the provisions of this chapter been in effect for the 1997  
31 assessment year.

32 d. If a taxpayer owns or leases pursuant to a capital  
33 lease less than the entire interest in a major addition, the  
34 local amount and statewide amount, if any, of such major  
35 addition shall be apportioned to the taxpayer on the basis of

1 its percentage interest in such major addition.

2 2. Beginning January 1, 1998, the assessed value of  
3 taxpayer property shall be adjusted annually as provided in  
4 this section. The director, with respect to each taxpayer,  
5 shall do all of the following:

6 a. Adjust the assessed value of taxpayer property in each  
7 local taxing district by the change in book value during the  
8 preceding calendar year of the local amount of any major  
9 addition reported within such local taxing district.

10 b. (1) Adjust the assessed value of taxpayer property in  
11 each local taxing district by allocating the change in book  
12 value during the preceding calendar year of the statewide  
13 amount and all other taxpayer property described in subsection  
14 1, paragraph "a", subparagraph (5), to the assessed value of  
15 all taxpayer property in the state pro rata according to its  
16 preadjustment value.

17 (2) If, during the preceding calendar year, a taxpayer  
18 transferred an electric power generating plant to a taxpayer  
19 who owned no other taxpayer property in this state as of the  
20 end of such preceding calendar year, in lieu of the adjustment  
21 provided in subparagraph (1), the director shall allocate the  
22 transferee taxpayer's change in book value of the statewide  
23 amount during such preceding calendar year, if any, among  
24 local taxing districts in proportion to the allocation of the  
25 transferor's assessed value among local taxing districts as of  
26 the end of such preceding calendar year.

27 c. In the case of taxpayer property described in  
28 subsection 1, paragraph "a", subparagraphs (3) and (4),  
29 decrease the assessed value of taxpayer property in each local  
30 taxing district by the taxable value of such property within  
31 each such local taxing district on January 1, 1997.

32 d. In the event of a merger or consolidation of two or  
33 more taxpayers, to determine the assessed value of the  
34 surviving taxpayer, combine the assessed values of such  
35 taxpayers immediately prior to the merger or consolidation.

1 e. In the event any taxpayer property is eligible for the  
2 urban revitalization tax exemption described in chapter 404,  
3 adjust the assessed value of taxpayer property within each  
4 affected local taxing district to reflect such exemption.

5 f. In the event the base year assessed value of taxpayer  
6 property is adjusted as a result of taxpayer appeals, reduce  
7 the assessed value of taxpayer property in each local taxing  
8 district to reflect such adjustment. The adjustment shall be  
9 allocated in proportion to the allocation of the taxpayer's  
10 assessed value among the local taxing districts determined  
11 without regard to this adjustment. If an adjustment to the  
12 base year assessed value of taxpayer property is finally  
13 determined on or before September 30, 1998, it shall be  
14 reflected in the January 1, 1998, assessed value. Otherwise,  
15 any such adjustment shall be made as of January 1 of the year  
16 following the date on which the adjustment is finally  
17 determined.

18 In no event shall the adjustments set forth in this  
19 subsection reduce the assessed value of taxpayer property in  
20 any local taxing district below zero.

21 The director, on or before October 31, 1998, in the case of  
22 January 1, 1998, assessed values, and on or before August 31  
23 of each subsequent assessment year, shall report to the  
24 department of management and to the auditor of each county the  
25 adjusted assessed value of taxpayer property as of January 1  
26 of such assessment year for each local taxing district. For  
27 purposes of this subsection, the assessed value of taxpayer  
28 property in each local taxing district subject to adjustment  
29 under this section by the director means the assessed value of  
30 such property as of the preceding January 1 as determined and  
31 allocated among the local taxing districts by the director.

32 Nothing in this chapter shall be interpreted to authorize  
33 local taxing districts to exclude from the calculation of levy  
34 rates the adjusted assessed value of taxpayer property  
35 reported to county auditors pursuant to this subsection.

1      Sec. 21. NEW SECTION. 437A.20 TAX EXEMPTIONS.

2      Except as provided in section 437A.16, all property tax  
3 exemptions in the Code do not apply to property subject to the  
4 statewide property tax unless such exemptions expressly refer  
5 to the statewide property tax, except that if property was  
6 exempt from property tax on January 1, 1998, such exemption  
7 shall continue until the exemption expires, is phased out, or  
8 is repealed. The property of a taxpayer who does not owe any  
9 replacement tax is exempt from the statewide property tax for  
10 the coinciding assessment year.

11     Sec. 22. NEW SECTION. 437A.21 RETURN AND PAYMENT  
12 REQUIREMENTS.

13     1. Each electric company, natural gas company, electric  
14 cooperative, municipal utility, and other person whose  
15 property is subject to the statewide property tax shall file  
16 with the director a return, on or before February 28 following  
17 the assessment year, including, but not limited to, the  
18 following information:

19     a. The assessed value of property subject to the statewide  
20 property tax.

21     b. The amount of statewide property tax computed on such  
22 assessed value.

23     2. The first return under subsection 1 is due on or before  
24 February 28, 1999.

25     3. If an electric company, natural gas company, electric  
26 cooperative, municipal utility, or person is not required to  
27 file a statewide property tax return on or before February 28,  
28 1999, but is required to file a return after such date, the  
29 return shall be filed on or before the due date. This  
30 subsection also applies in the event of a consolidation.

31     4. A return shall be signed by an officer, or other person  
32 duly authorized by the taxpayer, and must be certified as  
33 correct and in accordance with rules and forms prescribed by  
34 the director.

35     5. At the time of filing the return with the director, the



1 taxpayer shall calculate the statewide property tax owed for  
2 the assessment year and shall remit to the director the  
3 statewide property tax required to be shown to be due on the  
4 return.

5 Sec. 23. NEW SECTION. 437A.22 STATUTES APPLICABLE.

6 Sections 437A.9, 437A.10, 437A.12, 437A.13, and 437A.14,  
7 subsection 1, are applicable to electric companies, natural  
8 gas companies, electric cooperatives, municipal utilities, and  
9 persons whose property is subject to the statewide property  
10 tax. However, a required credit or refund of overpaid  
11 statewide property tax pursuant to section 437A.14, subsection  
12 1, as it applies to this subchapter, shall be made by the  
13 director and not by city chief financial officers or county  
14 treasurers.

15 Section 422.26 applies with respect to the statewide  
16 property tax and penalties imposed by this chapter, except  
17 that, as applied to any tax imposed by this chapter, the lien  
18 provided shall be prior to and superior over all subsequent  
19 liens upon any personal property within this state or right to  
20 such personal property belonging to the taxpayer, without the  
21 necessity of recording the lien as provided in section 422.26.  
22 The requirement for recording, as applied to the statewide  
23 property tax imposed by this chapter, shall apply only to a  
24 lien upon real property. In order to preserve such lien  
25 against subsequent mortgagees, purchasers, or judgment  
26 creditors, for value and without notice of the lien, on any  
27 real property situated in a county, the director shall file  
28 with the recorder of the county in which the real property is  
29 located a notice of the lien.

30 The county recorder of each county shall prepare and keep  
31 in the recorder's office a book to be known as the index of  
32 statewide property tax liens, so ruled as to show in  
33 appropriate columns under the names of taxpayers arranged  
34 alphabetically, all of the following:

35 1. The name of the taxpayer.

- 1     2. The name "State of Iowa" as claimant.
- 2     3. Time the notice of lien was received.
- 3     4. Date of notice.
- 4     5. Amount of lien then due.
- 5     6. Date of assessment.
- 6     7. Date when the lien is satisfied.

7     The recorder shall endorse on each notice of lien the day,  
8 hour, and minute when received and preserve such notice, and  
9 shall promptly record the lien in the manner provided for  
10 recording real estate mortgages. The lien is effective from  
11 the time of the indexing of the lien.

12    The director, from moneys appropriated to the department of  
13 revenue and finance for this purpose, shall pay a recording  
14 fee as provided in section 331.604 for the recording of the  
15 lien, or for its satisfaction.

16    Upon the payment of the replacement tax as to which the  
17 director has filed notice with a county recorder, the director  
18 shall promptly file with the recorder a satisfaction of the  
19 replacement tax. The recorder shall enter the satisfaction on  
20 the notice on file in the recorder's office and indicate that  
21 fact on the index.

22    Sec. 24. NEW SECTION. 437A.23 DEPOSIT OF TAX PROCEEDS.

23    All revenues received from imposition of the statewide  
24 property tax shall be deposited in the general fund of the  
25 state. Fifty percent of the revenues shall be available to  
26 the department of management for salaries, support, services,  
27 and equipment to administer the replacement tax. The balance  
28 of the revenues shall be available to the department of  
29 revenue and finance for salaries, support, services, and  
30 equipment to administer and enforce the replacement tax and  
31 the statewide property tax.

32

#### SUBCHAPTER 4

33

#### GENERAL PROVISIONS

34    Sec. 25. NEW SECTION. 437A.24 RECORDS.

35    Each electric company, natural gas company, electric

1 cooperative, municipal utility, and other person who is  
2 subject to the replacement tax or the statewide property tax  
3 shall maintain records associated with the replacement tax and  
4 the assessed value of property subject to the statewide  
5 property tax for a period of ten years following the later of  
6 the original due date for filing a return pursuant to sections  
7 437A.8 and 437A.21 in which such taxes are reported, or the  
8 date on which either such return is filed. Such records shall  
9 include those associated with any additions or dispositions of  
10 property, and the allocation of such property among local  
11 taxing districts.

12 Sec. 26. NEW SECTION. 437A.25 RULES.

13 The director of revenue and finance may adopt rules  
14 pursuant to chapter 17A for the administration and enforcement  
15 of this chapter.

16 Sec. 27. Section 257.3, subsection 1, Code 1997, is  
17 amended by adding the following unnumbered paragraph:

18 NEW UNNUMBERED PARAGRAPH. Replacement taxes under chapter  
19 437A shall be regarded as property taxes for purposes of this  
20 chapter.

21 Sec. 28. Section 427.1, subsection 2, Code Supplement  
22 1997, is amended to read as follows:

23 2. MUNICIPAL AND MILITARY PROPERTY. The property of a  
24 county, township, city, school corporation, levee district,  
25 drainage district or military company of the state of Iowa,  
26 when devoted to public use and not held for pecuniary profit,  
27 except property of a municipally owned electric utility held  
28 under joint ownership and property of an electric power  
29 facility financed under chapter 28F which shall be subject to  
30 ~~assessment and taxation under provisions of chapters 428 and~~  
31 ~~437~~ chapter 437A. The exemption for property owned by a city  
32 or county also applies to property which is operated by a city  
33 or county as a library, art gallery or museum, conservatory,  
34 botanical garden or display, observatory or science museum, or  
35 as a location for holding athletic contests, sports or

1 entertainment events, expositions, meetings or conventions, or  
2 leased from the city or county for any such purposes. Food  
3 and beverages may be served at the events or locations without  
4 affecting the exemptions, provided the city has approved the  
5 serving of food and beverages on the property if the property  
6 is owned by the city or the county has approved the serving of  
7 food and beverages on the property if the property is owned by  
8 the county.

9 Sec. 29. Section 428.24, Code 1997, is amended to read as  
10 follows:

11 428.24 PUBLIC UTILITY PLANTS.

12 The lands, buildings, machinery, and mains belonging to  
13 individuals or corporations operating waterworks or gasworks  
14 or pipelines, ~~the lands, buildings, machinery, tracks, poles,~~  
15 ~~and wires belonging to individuals, corporations or electric~~  
16 ~~power agencies furnishing electric light or power, and the~~  
17 ~~lands, buildings, machinery, poles, wires, overhead~~  
18 ~~construction, tracks, cables, conduits, and fixtures belonging~~  
19 ~~to individuals or corporations operating railways by cable or~~  
20 ~~electricity, or operating elevated street railways, except~~  
21 those natural gas pipelines permitted pursuant to chapter 479,  
22 shall be listed and assessed by the department of revenue and  
23 finance. In the making of assessments of waterworks plants,  
24 the value of any interest in the property assessed, of the  
25 municipal corporation where it is situated, shall be deducted,  
26 whether the interest is evidenced by stock, bonds, contracts,  
27 or otherwise.

28 Sec. 30. Section 428.26, Code 1997, is amended to read as  
29 follows:

30 428.26 PERSONAL PROPERTY.

31 All the personal property of such individuals and  
32 corporations used or purchased by them for the purposes of  
33 such gas or waterworks, ~~electric light plants, electric or~~  
34 ~~cable railways, elevated street railways or street railways~~  
35 ~~operated by animal power, including the rolling stock of such~~

1 ~~railways-and-street-railways,-and-the-animals-belonging-to~~  
2 ~~such-street-railways-operated-by-animal-power, other than~~  
3 natural gas pipelines permitted pursuant to chapter 479, shall  
4 be listed and assessed by the department of revenue and  
5 finance. In the making of any such assessment of waterworks  
6 plants, the value of any interest in the property so assessed,  
7 of the municipal corporation ~~wherein~~ in which the same  
8 waterworks is situated, shall be deducted, whether such  
9 interest be evidenced by stock, bonds, contracts, or  
10 otherwise.

11 Sec. 31. Section 428.28, Code 1997, is amended to read as  
12 follows:

13 428.28 ANNUAL REPORT BY UTILITY.

14 Every individual, copartnership, corporation, or  
15 association operating for profit, waterworks or gasworks or  
16 pipe lines~~-electric-light-or-power-plant,-railways-operated~~  
17 ~~by-electricity,-elevated-street-railways,-shall~~ other than  
18 natural gas pipelines permitted pursuant to chapter 479,  
19 annually on or before ~~the-first-day-of~~ May 1 of each calendar  
20 year, shall make a report on blanks to be provided by the  
21 department of revenue and finance of all of the property owned  
22 by such individual, copartnership, corporation, or association  
23 within the incorporated limits of any city in the state, and  
24 give such other information as the director of revenue and  
25 finance shall require.

26 Every individual, copartnership, corporation, or  
27 association which operates a public utility on a nonprofit  
28 basis other than a utility subject to tax under chapter 437A,  
29 as defined in section 428.24 shall annually, on or before the  
30 ~~first-day-of~~ May 1 of each calendar year, make a report on  
31 blanks to be provided by the department of revenue and finance  
32 of all of the property owned by the individual, copartnership,  
33 corporation, or association within the incorporated limits of  
34 any city in the state, and give other information the director  
35 of revenue and finance requires.

1 Sec. 32. Section 437.1, Code 1997, is amended by striking  
2 the section and inserting in lieu thereof the following:

3 437.1 DEFINITIONS.

4 As used in this chapter, unless the context otherwise  
5 requires:

6 1. "Company" means an electric cooperative referred to in  
7 section 437A.7, subsection 2, paragraph "c".

8 2. "Electric cooperative" means an electric utility  
9 provider formed or organized as an electric cooperative under  
10 the laws of this state or elsewhere.

11 3. "Transmission lines" means electric lines and  
12 associated facilities operating at thirty-four thousand five  
13 hundred volts or higher voltage, and substations,  
14 transformers, and associated facilities operated at thirty-  
15 four thousand five hundred or more volts on the low voltage  
16 side.

17 Sec. 33. Section 437.3, Code 1997, is amended to read as  
18 follows:

19 437.3 VERIFICATION.

20 The verification of any statement required by law shall ~~in~~  
21 ~~the case of a person,~~ be made by ~~such person,~~ ~~in the case of a~~  
22 ~~corporation,~~ ~~by the president or secretary thereof,~~ ~~and in~~  
23 ~~case of a copartnership,~~ ~~association,~~ ~~or syndicate,~~ ~~by some~~  
24 member, officer, or agent thereof of the company having  
25 knowledge of the facts.

26 Sec. 34. Section 438.1, Code 1997, is amended to read as  
27 follows:

28 438.1 TAXATION PROCEDURE.

29 Every person, copartnership, association, corporation, or  
30 syndicate engaged in the business of transporting or  
31 transmitting gas, gasoline, oils, or motor fuels by means of  
32 pipelines other than natural gas pipelines permitted pursuant  
33 to chapter 479, whether such pipelines be owned or leased,  
34 shall be taxed as herein provided in this chapter.

35 Sec. 35. Section 438.2, Code 1997, is amended to read as

1 follows:

2 438.2 DEFINITIONS DEFINITION.

3 ~~The words "pipeline~~ "Pipeline company", as used in this  
4 chapter ~~shall be deemed and construed to mean,~~ means any  
5 person, copartnership, association, corporation, or syndicate  
6 that may own or operate or be engaged in operating or  
7 utilizing pipelines, other than natural gas pipelines  
8 permitted pursuant to chapter 479, for the purposes described  
9 in section 438.1.

10 Sec. 36. Section 441.73, subsection 1, Code Supplement  
11 1997, is amended to read as follows:

12 1. A litigation expense fund is created in the state  
13 treasury. The litigation expense fund shall be used for the  
14 payment of litigation expenses incurred by the state to defend  
15 property valuations established by the director of revenue and  
16 finance pursuant to section 428.24 and chapters 430A, 433,  
17 434, 436, 437, 437A, and 438, and for the payment of  
18 litigation expenses incurred by the state to defend the  
19 imposition of replacement taxes and statewide property taxes  
20 under chapter 437A.

21 Sec. 37. Section 476.6, Code 1997, is amended by adding  
22 the following new subsections:

23 NEW SUBSECTION. 22. The costs of the replacement tax  
24 imposed pursuant to chapter 437A shall be reflected in the  
25 charges of utilities subject to rate regulation, in lieu of  
26 the utilities' costs of property taxes. The imposition of the  
27 replacement taxes pursuant to chapter 437A is not intended to  
28 initiate any change in the rates and charges for the sale of  
29 electricity, the sale of natural gas, or the transportation of  
30 natural gas that is subject to regulation by the board and in  
31 effect on the effective date of chapter 437A.

32 The cost of the replacement taxes imposed by chapter 437A  
33 shall be allocated among and within customer classes in a  
34 manner that will replicate the tax cost burden of the current  
35 property tax on individual customers to the maximum extent

1 practicable.

2 Upon the restructuring of the electric industry in this  
3 state so that individual consumers are given the right to  
4 choose their electric suppliers, replacement tax costs shall  
5 be assigned to the service corresponding to the individual  
6 generation, transmission, and delivery taxes. In all other  
7 respects, the allocation of the replacement tax costs among  
8 and within the customer classes shall remain the same to the  
9 maximum extent practicable.

10 Notwithstanding this subsection, the board may determine  
11 the amount of replacement tax properly included in retail  
12 rates subject to its jurisdiction. The board may determine  
13 whether the base rates or some other form of rate is most  
14 appropriate for recovery of the costs of the replacement tax,  
15 subject to the requirement that utility rates be reasonable  
16 and just. The board may also determine the appropriate  
17 allocation of the tax. Any significant modification to rate  
18 design relating to the replacement tax shall be made in a  
19 manner consistent with this subsection unless made in a  
20 contested case proceeding where the impact of such  
21 modification on competition and consumer costs is considered.

22 NEW SUBSECTION. 23. On or before January 1, 2000, the  
23 utilities board, in consultation with the department of  
24 revenue and finance, shall initiate and coordinate the  
25 establishment of a replacement tax study committee and provide  
26 staffing assistance to the committee. It is the intent of the  
27 general assembly that the committee include representatives of  
28 the utilities board, department of revenue and finance,  
29 department of management, investor-owned utilities, municipal  
30 utilities, cooperative utilities, local governments, major  
31 customer classes, and other stakeholders.

32 The committee shall study the effects of the replacement  
33 tax on both restructuring and the development of competition  
34 in the gas and electric industries in this state. The board  
35 shall report to the general assembly by January 1, 2002, the



1 results of the study, and the committee's recommendations as  
2 to whether the replacement tax, in its then present form,  
3 should be continued, whether a different form of taxation of  
4 electric and gas utilities should be adopted in order to allow  
5 free and fair competition in the electric and gas industries,  
6 and fair competitive prices for all classes of consumers,  
7 whether a different basis for determination of the generation,  
8 transmission, and delivery taxes should be adopted or whether  
9 the relative share of the total replacement tax burden imposed  
10 on each of the generation, transmission, and delivery  
11 functions should be modified in order to allow free and fair  
12 competition in the electric and gas industries, and fair  
13 competitive prices for all classes of consumers, and whether  
14 the replacement tax in its then present form, appropriately  
15 accounts for the decline in value of electric power generating  
16 plants. The replacement tax study committee shall reconvene  
17 by January 1, 2005, to further study these same issues, and  
18 the board shall report the results of the study and the  
19 committee's recommendations to the general assembly by January  
20 1, 2007.

21 Upon recommendation of the committee, the board may  
22 contract for services necessary to the implementation of this  
23 subsection with persons who are not state employees,  
24 including, but not limited to, facilitators, consultants, and  
25 other experts required to assist the committee. The cost of  
26 contracted services shall not be paid from appropriated funds,  
27 but shall be assessed to entities paying replacement tax  
28 pursuant to chapter 437A, subchapter 2, pro rata, based on the  
29 amount of tax paid.

30 Sec. 38. SPECIAL REPORTING REQUIREMENTS. Within ninety  
31 days of the effective date of this Act, each electric company,  
32 electric cooperative not described in section 437A.7,  
33 subsection 2, paragraph "c", municipal utility, and natural  
34 gas company shall report to the director, by certified  
35 statement subject to audit, the following information:

1 1. The entity's liability for centrally assessed property  
2 tax, as defined in section 437A.3, subsection 2, allocated to  
3 electric service for the assessment years 1992 through 1996 on  
4 the basis of property tax payments made.

5 2. The entity's liability for centrally assessed property  
6 tax, as defined in section 437A.3, subsection 2, allocated to  
7 natural gas service for the assessment years 1992 through 1996  
8 on the basis of property tax payments made.

9 3. The entity's total kilowatt-hours of electricity  
10 generated which would have been subject to taxation under  
11 section 437A.6 for the 1997 assessment year had such taxation  
12 been in effect for assessment year 1997. Kilowatt-hours of  
13 electricity generated by a facility which was jointly owned or  
14 leased in assessment year 1997 shall be calculated and  
15 reported pursuant to section 437A.6, subsection 2, as if such  
16 subsection had been in effect for 1997.

17 4. The entity's total pole miles of electric transmission  
18 lines owned or leased on December 31, 1997, by line voltage,  
19 which would have been subject to taxation under section 437A.7  
20 for the 1997 assessment year had such taxation been in effect  
21 for assessment year 1997. Pole miles of electric transmission  
22 lines which were jointly owned or leased in assessment year  
23 1997 shall be calculated and reported pursuant to section  
24 437A.7, subsection 3, as if such subsection had been in effect  
25 for assessment year 1997.

26 5. The entity's total kilowatt-hours of electricity  
27 delivered to consumers which would have been subject to  
28 taxation under section 437A.4 for the assessment years 1993  
29 through 1997 had such taxation been in effect for such  
30 assessment years.

31 6. The entity's total therms of natural gas delivered to  
32 consumers which would have been subject to taxation under  
33 section 437A.5 for the assessment years 1993 through 1997 had  
34 such taxation been in effect for such assessment years.

35 7. For each generation and transmission electric

1 cooperative, the excess property tax liability assignable to  
2 each electric competitive service area principally served by  
3 its distribution electric cooperative and municipal electric  
4 cooperative association members pursuant to section 437A.4,  
5 subsection 3, paragraph "c", subparagraph (4).

6 8. For each municipal electric cooperative association,  
7 the excess property tax liability assignable to each electric  
8 competitive service area principally served by its municipal  
9 utility members on January 1, 1998.

10 If information necessary to compute the delivery tax rate  
11 for any electric or natural gas competitive service area is  
12 not timely reported, the director shall estimate a delivery  
13 tax rate for such electric or natural gas competitive service  
14 area which shall not be lower than the highest electric or  
15 natural gas delivery tax rate computed for other electric or  
16 natural gas competitive service areas. However, if such  
17 information is provided within thirty days after the director  
18 has published in the Iowa administrative bulletin the delivery  
19 tax rates computed pursuant to section 437A.4, subsection 3,  
20 paragraph "d", and section 437A.5, subsection 3, paragraph  
21 "c", the director shall recalculate the electric or natural  
22 gas delivery tax rate for such electric or natural gas  
23 competitive service area and notify the taxpayers of the new  
24 electric or natural gas delivery tax rate by publication in  
25 the Iowa administrative bulletin on or before January 31,  
26 1999.

27 Sec. 39. Sections 428.37 and 437.14, Code 1997, are  
28 repealed.

29 Sec. 40. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

30 1. This Act, being deemed of immediate importance, takes  
31 effect upon enactment.

32 2. This Act is retroactively applicable to property tax  
33 assessment years beginning on or after January 1, 1998, and to  
34 replacement tax years beginning on or after January 1, 1998.

35

EXPLANATION

1 This bill generally replaces the current central property  
2 tax assessment procedures utilized by the director of revenue  
3 and finance in valuing property of entities involved primarily  
4 in the production, delivery, and transmission of electricity  
5 and natural gas within this state, with excise taxes on  
6 electricity and natural gas, and a statewide property tax on  
7 certain property of such entities.

8 Section 1 of the bill sets forth the legislative findings  
9 including the recognition by the legislature that a  
10 competitive environment will replace the current regulated  
11 environment for the electric and natural gas utility industry  
12 necessitating a change in the manner in which electric and gas  
13 utilities must be taxed.

14 The bill creates new Code chapter 437A which is divided  
15 into four subchapters.

16 Subchapter 1 includes introductory provisions in new Code  
17 sections 437A.1 through 437A.3.

18 New Code section 437A.1 identifies the subchapters  
19 contained in the new Code chapter.

20 New Code section 437A.2 sets forth the purpose of the  
21 chapter which is to replace property taxes imposed on electric  
22 and natural gas companies, electric cooperatives, and  
23 municipal utilities with a system of taxation which will  
24 enable such entities to effectively compete in a competitive  
25 marketplace, while preserving revenue neutrality and debt  
26 capacity for local governments and taxpayers.

27 New Code section 437A.3 establishes the definitions of key  
28 terms used in the chapter.

29 Subchapter 2 includes provisions relating to the  
30 generation, transmission, and delivery taxes imposed under the  
31 new chapter and includes new Code sections 437A.4 through  
32 437A.17.

33 New Code section 437A.4 imposes a replacement tax on the  
34 delivery of electricity to a consumer within this state. The  
35 replacement delivery tax is equal to the sum of the number of

1 kilowatt-hours delivered to consumers by the taxpayer within  
2 each electric competitive service area during the tax year  
3 multiplied by the electric replacement delivery tax rate for  
4 each competitive service area plus, if applicable, the number  
5 of kilowatt-hours delivered to consumers by the taxpayer  
6 within each electric competitive service area during the tax  
7 year multiplied by the electric transfer replacement tax rate  
8 for each electric competitive service area. The tax rate is  
9 to be calculated by the director as provided in this section.

10 The section provides that the replacement tax includes  
11 electric generation, transmission, and delivery tax  
12 components. The section provides for municipal electric  
13 transfer replacement tax rates which are to be calculated  
14 annually by the city council of each city located within an  
15 electric competitive service area served by a municipal  
16 utility as of January 1, 1998. The section also provides for  
17 the recalculation of the electric replacement delivery tax as  
18 a result of an increase or decrease in the number of taxable  
19 kilowatt-hours of electricity reported with respect to any  
20 electric competitive service area.

21 New Code section 437A.5 imposes a replacement tax on the  
22 delivery of natural gas to a consumer within this state. The  
23 replacement delivery tax is equal to the sum the number of  
24 therms delivered to consumers by the taxpayer within each  
25 natural gas competitive service area during the tax year  
26 multiplied by the natural gas delivery tax rate for each  
27 competitive service area plus, if applicable, the number of  
28 therms of natural gas delivered to consumers by the taxpayer  
29 within each natural gas competitive service area during the  
30 tax year multiplied by the municipal natural gas transfer  
31 replacement tax rate for each natural gas competitive service  
32 area. The tax rate is to be calculated by the director as  
33 provided in this section.

34 The section provides for municipal natural gas transfer  
35 replacement tax rates which are to be calculated annually by

1 the city council of each city located within a natural gas  
2 competitive service area served by a municipal utility as of  
3 January 1, 1998. The section also provides for the  
4 recalculation of the natural gas replacement delivery tax as a  
5 result of an increase or decrease in the number of taxable  
6 therms of natural gas reported with respect to any natural gas  
7 competitive service area.

8 New Code section 437A.6 establishes a replacement tax to be  
9 imposed on electric generation of six hundredths of a cent per  
10 kilowatt-hour of electricity generated within this state  
11 during a tax year for certain generators.

12 New Code section 437A.7 establishes a replacement tax to be  
13 imposed on persons owning or leasing transmission lines based  
14 on the number of pole miles of transmission line. The bill  
15 establishes certain exceptions to the replacement transmission  
16 tax.

17 New Code section 437A.8 sets forth the filing requirements  
18 including the information to be included on the return. The  
19 section requires a taxpayer to remit to the county treasurer  
20 of each county to which replacement tax is allocated, one-half  
21 of the replacement tax due on or before September 30 with the  
22 remainder to be remitted on or before the following March 31.

23 New Code section 437A.9 establishes a three-year statute of  
24 limitations for the director of revenue and finance to examine  
25 and assess additional tax, if the return is found to be  
26 incorrect. The section provides that if a return is not  
27 filed, or when filed is incorrect and after notice from the  
28 director a corrected return is not filed, the director is  
29 authorized to estimate the tax due.

30 New Code section 437A.10 provides that the actions of the  
31 director may be judicially reviewed pursuant to chapter 17A.

32 New Code section 437A.11 establishes a lien on the property  
33 of a taxpayer if any replacement tax, together with any costs  
34 which accrue, goes unpaid. The bill provides that such lien  
35 is prior to and superior over all subsequent liens.

1 New Code section 437A.12 provides for service of notice to  
2 taxpayers.

3 New Code section 437A.13 establishes penalties for failure  
4 to pay replacement tax due.

5 New Code section 437A.14 provides for correction of errors,  
6 refunds, or credits of replacement tax paid, and for the  
7 confidentiality of information provided on a return by a  
8 taxpayer. The bill provides that claims for refund or credit  
9 are to be filed with the director and must be filed within  
10 three years after the replacement tax payment upon which a  
11 refund or credit is claimed became due, or one year after the  
12 replacement tax payment was made, whichever time is later.  
13 Claims for refund or credit of municipal transfer replacement  
14 tax are to be filed with the appropriate city's chief  
15 financial officer.

16 New Code section 437A.15 provides for the allocation of all  
17 replacement tax revenue by the director of revenue and  
18 finance. The bill provides that all replacement taxes owed by  
19 a taxpayer are to be allocated among the local taxing  
20 districts in which such taxpayer's property is located in  
21 accordance with a general allocation formula determined by the  
22 department of management on the basis of general property tax  
23 equivalents. The section also directs the department of  
24 management, in consultation with the department of revenue and  
25 finance, to initiate and coordinate the establishment of a  
26 task force to study the effects of the replacement tax on  
27 local taxing districts and taxpayers.

28 New Code section 437A.16 provides that all operating  
29 property and all other property that is primarily and directly  
30 used in the production, generation, transmission, or delivery  
31 of electricity or natural gas owned by or leased to a person  
32 subject to taxation under new Code chapter 437A is exempt from  
33 taxation except as provided in new Code chapter 437A.

34 New Code section 437A.17 provides that the director shall  
35 administer and enforce new Code chapter 437A.

1 Subchapter 3 establishes a statewide property tax on  
2 property of public utilities and includes new Code section  
3 437A.18 through 437A.23.

4 New Code section 437A.18 imposes an annual statewide  
5 property tax of three cents per \$1,000 of assessed value on  
6 all property that is primarily and directly used in the  
7 production, generation, transmission, or delivery of  
8 electricity or natural gas owned or leased to a person subject  
9 to taxation under new Code chapter 437A.

10 New Code section 437A.19 establishes reporting requirements  
11 for all electric companies, natural gas companies, electric  
12 cooperatives, municipal utilities, and any other person  
13 subject to the replacement taxes established in new Code  
14 chapter 437A for property added or disposed of by such  
15 entities. The section provides a mechanism for the adjustment  
16 and reevaluation of the value of the property of such  
17 entities.

18 New Code section 437A.20 provides that except for certain  
19 exceptions, all current property exemptions do not apply to  
20 property subject to the statewide property tax established in  
21 new Code section 437A.18. The exceptions include property  
22 which was exempt from property tax as of January 1, 1998,  
23 until such time as the exemption expires, is phased out, or is  
24 repealed. Also, property of a taxpayer who does not owe any  
25 replacement tax is exempt for the coinciding assessment year.

26 New Code section 437A.21 requires an annual filing for the  
27 statewide property tax and also sets forth the requirements  
28 for such filing.

29 New Code section 437A.22 sets forth certain sections which  
30 are applicable to the statewide property tax for purposes of  
31 enforcement and review of such tax. The section also provides  
32 for a lien on the personal property of a taxpayer for property  
33 tax due and provides that such lien is prior to and superior  
34 over all subsequent liens upon such property.

35 New Code section 437A.23 provides that all revenue from the



1 statewide property tax established in new Code section 437A.18  
2 is to be deposited in the general fund of the state with 50  
3 percent of such revenue being available to the department of  
4 management for salaries, support, services, and equipment to  
5 administer the replacement tax, and 50 percent of such revenue  
6 being available to the department of revenue and finance for  
7 salaries, support, services, and equipment to administer and  
8 enforce the replacement tax and the statewide property tax.

9 Subchapter 4 includes general provisions under the chapter  
10 and includes new Code section 437A.24 and 437A.25.

11 New Code section 437A.24 provides that each electric  
12 company, natural gas company, electric cooperative, municipal  
13 utility, and other person subject to the replacement taxes or  
14 statewide property tax established in the chapter must  
15 maintain records related to such taxes for a period of 10  
16 years.

17 New Code section 437A.25 authorizes the director of revenue  
18 of finance to adopt rules for the administration of the  
19 chapter.

20 Code section 257.3 is amended to provide that replacement  
21 taxes under new Code chapter 437A are to be treated as  
22 property taxes for purposes of chapter 257, which relates to  
23 financing school programs.

24 Code section 427.1 provides that property of a municipally  
25 owned electric utility is subject to taxation under new Code  
26 chapter 437A.

27 Code section 428.24 is amended by striking utility property  
28 from the provision relating to property tax.

29 Code section 428.26 is amended by striking utility property  
30 from the provision relating to personal property tax.

31 Code section 428.28 is amended to exempt a utility subject  
32 to taxation under new Code chapter 437A from the annual report  
33 requirement of this section.

34 Code sections 437.1, 437.3, 438.1, 438.2, and 441.73 are  
35 amended to conform with the enactment of new Code chapter

1 437A.

2 Code section 476.6 is amended to provide that the  
3 replacement tax imposed under new Code chapter 437A is to be  
4 reflected in the charges of utilities subject to rate  
5 regulation. The board is authorized to determine the amount  
6 of replacement tax properly included in retail rates subject  
7 to the board's jurisdiction. The utilities board, in  
8 consultation with the department of revenue and finance, is to  
9 initiate and coordinate a replacement tax study committee to  
10 study the effects of the replacement tax on both restructuring  
11 and the development of competition in the natural gas and  
12 electric industries in this state.

13 The bill requires all taxpayers to file a report with the  
14 department of revenue and finance within 90 days of the  
15 effective date of the bill, including data necessary to  
16 compute the replacement tax.

17 The bill repeals Code sections 428.37 and 437.14. Code  
18 section 428.37 relates to the listing of certain electric  
19 power generating plants for purposes of property taxation.  
20 Code section 437.14 relates to the assessment of electric  
21 lines and associated facilities of a cooperative corporation  
22 or association.

23 The bill provides for the retroactive applicability of the  
24 bill to property tax assessment years beginning on or after  
25 January 1, 1998, and to replacement tax years beginning on or  
26 after January 1, 1998. The bill is effective upon enactment.

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**SENATE FILE 2416  
FISCAL NOTE**

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A fiscal note for Senate File 2416 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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Senate File 2416 replaces the current central property tax assessment procedures utilized by the Director of Revenue and Finance (DRF) in valuing property of entities involved primarily in the production, delivery, and transmission of electricity and natural gas within the State, with excise taxes on electricity and natural gas, and a statewide property tax on certain property of such entities.

**FISCAL EFFECT**

The only Section of SF 2416 which is expected to have a General Fund impact is Section 19, which establishes a statewide property tax equal to \$0.03 per \$1,000 value of assessed valuation of utility company generation, transmission, or delivery of electricity or natural gas. The purpose of the statewide property tax is to keep the utility company property on property tax roles so the bonding capacity of localities is preserved. The estimated fiscal impact of the statewide property tax is a net increase of \$150,000 annually. The funds will be used by the DRF to offset the cost of administering the replacement tax system.

The remainder of the Bill is not expected to have any State General Fund impact. Any impact on localities is expected to be mitigated by the provision in Section 16 which permits an additional levy to make up any shortfall under the new replacement tax system for tax years 1998, 1999, and 2000.

**SOURCES**

Department of Revenue and Finance

(LSB 3769sv, LCS)

FILED MARCH 31, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2416

S-5536

1 Amend Senate File 2416 as follows:

DIV 2 1. Page 46, line 17, by striking the word and  
 A 3 figures "January 1, 1999," and inserting the  
 4 following: "July 1, 1998,".  
 5 2. Page 46, line 28, by inserting after the word  
 6 "districts" the following: ", consumers,".

DIV 7 3. Page 62, by striking lines 29 through 34 and  
 B 8 inserting the following:  
 9 "Sec. \_\_\_\_ . EFFECTIVE AND APPLICABILITY DATES --  
 10 DIRECTIONS TO CODE EDITOR.  
 11 1. Except as provided in subsection 2, this Act  
 12 takes effect January 1, 2000, and is applicable to  
 13 property tax assessment years beginning on or after  
 14 January 1, 2000, and to replacement tax years  
 15 beginning on or after January 1, 2000.  
 16 2. Notwithstanding subsection 1, section 437A.15,  
 17 subsection 7, as enacted in this Act, takes effect  
 18 upon enactment.  
 19 3. Except as specifically provided in this  
 20 section, the Code editor shall postdate all years  
 21 referenced in this Act by two years to reflect the  
 22 effective date in subsection 1."

23 4. By renumbering and correcting internal  
 24 references as necessary.

By MARY A. LUNDBY  
 STEVE KING

MIKE CONNOLLY  
 MICHAEL E. GRONSTAL

S-5536 FILED APRIL 6, 1998 (p.1081)  
 DIV A - ADOPTED, DIV B - LOST (p.1082)

SENATE FILE 2416

S-5539

1 Amend Senate File 2416 as follows:

2 1. Page 15, by striking lines 23 and 24 and  
 3 inserting the following: "facility owned by or leased  
 4 to such person, electricity for its own consumption or  
 5 for sale to a taxpayer. A person".  
 6 2. Page 15, line 28, by inserting after the word  
 7 "self-generator" the following: "if such other person  
 8 uses a taxpayer's transmission or distribution system  
 9 for delivery of such electricity".  
 10 3. Page 15, by striking line 30 and inserting the  
 11 following: "that is owned by or leased to a person".  
 12 4. Page 15, line 31, by striking the word  
 13 "solely".  
 14 5. By striking page 15, line 33, through page 16,  
 15 line 1, and inserting the following: "located or on a  
 16 contiguous parcel of land or which does not use a  
 17 taxpayer's transmission or distribution system for  
 18 delivery of such electricity."

By MARY A. LUNDBY

S-5539 FILED APRIL 6, 1998  
 LOST (p.1082)

## SENATE FILE 2416

S-5508

1 Amend Senate File 2416 as follows:

2 1. Page 4, by striking lines 15 and 16 and  
3 inserting the following: "to electric service and  
4 natural gas service. For purposes of this subsection,  
5 "natural gas service" means such service provided by  
6 natural gas pipelines permitted pursuant to chapter  
7 479."

8 2. Page 15, line 24, by inserting after the word  
9 "consumption" the following: ", except for  
10 inadvertent unscheduled deliveries to the electric  
11 utility furnishing electric service to that self-  
12 generator".

13 3. By striking page 15, line 35, through page 16,  
14 line 1, and inserting the following: "parcel of land  
15 shown on the tax list."

16 4. Page 44, line 9, by striking the figure  
17 "437A.20" and inserting the following: "437A.19".

18 5. Page 45, by striking lines 20 and 21 and  
19 inserting the following: "taxing districts and  
20 reported to the county auditor. Special".

21 6. Page 46, line 31, by inserting after the word  
22 "study" the following: "and the specific  
23 recommendations of the task force for modifications to  
24 the replacement tax, if any, which will further the  
25 purposes of tax neutrality for local taxing districts,  
26 taxpayers, and consumers, consistent with the stated  
27 purposes of this chapter. The department of  
28 management shall also report to the legislative  
29 council by November 15 of each year through 2001, the  
30 status of the task force study and any  
31 recommendations".

32 7. Page 59, line 22, by striking the word and  
33 figures "January 1, 2000" and inserting the following:  
34 "July 1, 1999".

35 8. Page 59, line 35, by striking the figure "1,"  
36 and inserting the following: "1 of each year  
37 through".

By O. GENE MADDOX  
PATRICK J. DELUHERY

S-5508 FILED APRIL 6, 1998  
ADOPTED

(p. 1081)



1 DIVISION I -- INTRODUCTORY PROVISIONS

2 Section 1. LEGISLATIVE FINDINGS. The general assembly  
3 finds that with the advent of restructuring of the electric  
4 and natural gas utility industry, a competitive environment  
5 will replace the current regulated monopoly environment.  
6 Currently, utility companies are subject to property taxes  
7 which are levied in various amounts with respect to utility  
8 property located in areas serviced by the utility companies.  
9 If the property tax, as currently levied, continues, the  
10 property tax costs in Iowa will become a factor among  
11 competitors in the pricing of electricity and natural gas.  
12 Moreover, non-Iowa located electricity and natural gas  
13 suppliers do not have property in Iowa subject to property tax  
14 and to the extent that they are located in a low property tax  
15 state, such property tax costs would grant to such non-Iowa  
16 suppliers an unfair tax advantage over Iowa-based utility  
17 companies.

18 The general assembly also finds that restructuring may  
19 result in the loss of in-lieu-of-tax transfers from surplus  
20 funds made by a municipal utility to the city. These  
21 transfers take the place of a property tax and are recognized  
22 in this Act as such.

23 Therefore, the general assembly finds that a need exists to  
24 replace the current Iowa property tax system levied on  
25 electric and natural gas utility companies located in Iowa.  
26 However, any replacement tax needs to be revenue neutral so as  
27 not to harm the fiscal stability of local governments which  
28 depend upon such utility property taxes and municipal  
29 transfers, and further, so as to negate tax costs as a factor  
30 in a competitive utility industry environment. Additionally,  
31 such replacement tax must allow fair and competitive prices  
32 for consumers of electric and natural gas services, and  
33 minimize the impact on the cost of such services to consumers.

34 The general assembly, therefore, finds that the replacement  
35 tax should be imposed on the generation, transmission, and

1 delivery of electricity and natural gas. Statewide generation  
2 and transmission taxes are necessary to ensure that in the  
3 event such functions are conducted by stand-alone generation  
4 and transmission companies, such companies will continue to  
5 contribute to the tax base. However, imposition of a single  
6 statewide delivery tax rate would unfairly increase tax costs  
7 for some taxpayers while reducing such costs for others. Such  
8 a result would impede a competitive environment and disrupt  
9 the tax continuity for taxpayers, and has the potential to  
10 unnecessarily increase costs for consumers of gas and  
11 electricity. Therefore, to maintain tax continuity and tax  
12 revenues for local government and to maintain tax continuity  
13 and negate tax costs as a factor in a competitive environment  
14 for taxpayers and consumers, the delivery tax rates should be  
15 fixed by geographic service areas which are designed and  
16 structured to accomplish these goals.

17 The current property tax valuation process for utility  
18 companies is complex and time-consuming to administer. The  
19 replacement tax eases this administrative burden on state  
20 government.

21 Replacing the current system of property taxes levied on  
22 electric and natural gas utility companies located in Iowa  
23 with a system of excise taxes associated with electricity and  
24 natural gas represents a significant change in the method of  
25 taxing electric and natural gas utility companies. Due to the  
26 importance of the revenues generated by these taxes to local  
27 taxing districts, the general assembly finds it desirable to  
28 implement this new system of taxation in advance of the  
29 impending restructuring of the electric and natural gas  
30 industry to ensure that the new system of taxation performs as  
31 intended.

32 SUBCHAPTER 1

33 INTRODUCTORY PROVISIONS

34 Sec. 2. NEW SECTION. 437A.1 CLASSIFICATION OF CHAPTER.

35 The provisions of this chapter are classified and



1 designated as follows:

2 Subchapter 1 Introductory Provisions.

3 Subchapter 2 Generation, Transmission, and Delivery  
4 Taxes.

5 Subchapter 3 Statewide Property Tax.

6 Subchapter 4 General Provisions.

7 Sec. 3. NEW SECTION. 437A.2 PURPOSES.

8 The purposes of this chapter are to replace property taxes  
9 imposed on electric companies, natural gas companies, electric  
10 cooperatives, and municipal utilities with a system of  
11 taxation which will remove tax costs as a factor in a  
12 competitive environment by imposing like generation,  
13 transmission, and delivery taxes on similarly situated  
14 competitors who generate, transmit, or deliver electricity or  
15 natural gas in the same competitive service area, to preserve  
16 revenue neutrality and debt capacity for local governments and  
17 taxpayers, to preserve neutrality in the allocation and cost  
18 impact of any replacement tax among and upon consumers of  
19 electricity and natural gas in this state, and to provide a  
20 system of taxation which reduces existing administrative  
21 burdens on state government.

22 Sec. 4. NEW SECTION. 437A.3 DEFINITIONS.

23 As used in this chapter, unless the context otherwise  
24 requires:

25 1. "Assessed value" means the base year assessed value, as  
26 adjusted by section 437A.19, subsection 2. "Base year  
27 assessed value", for a taxpayer other than an electric  
28 company, natural gas company, or electric cooperative, means  
29 the value attributable to property identified in section  
30 427A.1, subsection 1, paragraph "h", certified by the  
31 department of revenue and finance to the county auditors for  
32 the assessment date of January 1, 1996, and the value  
33 attributable to property identified in section 427A.1 and  
34 section 427B.17, subsection 5, as certified by the local  
35 assessors to the county auditors for the assessment date of

1 January 1, 1996.

2 For taxpayers that are electric companies, natural gas  
3 companies, and electric cooperatives, "base year assessed  
4 value" means the average of the total of these values for each  
5 taxpayer for the assessment dates of January 1, 1992, through  
6 January 1, 1996, allocated among taxing districts in  
7 proportion to the allocation of the taxpayer's January 1,  
8 1997, assessed value among taxing districts. "Base year  
9 assessed value" does not include value attributable to steam-  
10 operating property.

11 2. "Centrally assessed property tax" means property tax  
12 imposed with respect to the value of property determined by  
13 the director pursuant to section 427.1, subsection 2, section  
14 428.29, chapter 437, and chapter 438, Code 1997, and allocated  
15 to electric service and natural gas service. For purposes of  
16 this subsection, "natural gas service" means such service  
17 provided by natural gas pipelines permitted pursuant to  
18 chapter 479.

19 3. "Consumer" means an end user of electricity or natural  
20 gas used or consumed within this state. "Consumer" includes  
21 any master-metered facility even though the electricity or  
22 natural gas delivered to such facility may ultimately be used  
23 by another person. A person to whom electricity or natural  
24 gas is delivered by a master-metered facility is not a  
25 consumer. A "master-metered facility" means any multi-  
26 occupancy premises where units are separately rented or owned  
27 and where electricity or natural gas is used in centralized  
28 heating, cooling, water-heating, or ventilation systems, where  
29 individual metering is impractical, where the facility is  
30 designated for elderly or handicapped persons and utility  
31 costs constitute part of the operating cost and are not  
32 apportioned to individual units, or where submetering or  
33 resale of service was permitted prior to 1966.

34 4. "Delivery" means the physical transfer of electricity  
35 or natural gas to a consumer. Physical transfer to a consumer

1 occurs when transportation of electricity or natural gas ends  
2 and such electricity or natural gas becomes available for use  
3 or consumption by a consumer.

4 5. "Director" means the director of revenue and finance.

5 6. "Electric company" means a person engaged primarily in  
6 the production, delivery, service, or sales of electric energy  
7 whether formed or organized under the laws of this state or  
8 elsewhere. "Electric company" includes a combination natural  
9 gas company and electric company. "Electric company" does not  
10 include an electric cooperative or a municipal utility.

11 7. "Electric competitive service area" means an electric  
12 service area assigned by the utilities board under chapter 476  
13 as of January 1, 1998, including utility property and  
14 facilities described in section 476.23, subsection 3, which  
15 were owned and served by the electric company, electric  
16 cooperative, or municipal utility serving such area on January  
17 1, 1998.

18 8. "Electric cooperative" means an electric utility  
19 provider formed or organized as an electric cooperative under  
20 the laws of this state or elsewhere. An electric cooperative  
21 shall also include an incorporated city utility provider.

22 "Generation and transmission electric cooperative" means an  
23 electric cooperative which owns both transmission lines and  
24 property which is used to generate electricity. "Distribution  
25 electric cooperative" means an electric cooperative other than  
26 a generation and transmission electric cooperative or a  
27 municipal electric cooperative association.

28 9. "Electric power generating plant" means a name plate  
29 rated electric power generating plant, which produces electric  
30 energy from other forms of energy, including all taxable land,  
31 buildings, and equipment used in the production of such  
32 electric energy.

33 10. "Incorporated city utility provider" means a  
34 corporation with assets worth one million dollars or more  
35 which has one or more platted villages located within the

1 territorial limits of the tract of land which it owns, and  
2 which provides electricity to ten thousand or fewer customers.

3 11. "Lease" means a contract between a lessor and lessee  
4 pursuant to which the lessee obtains a present possessory  
5 interest in tangible property without obtaining legal title in  
6 such property. A contract to transmit or deliver electricity  
7 or natural gas using operating property within this state is  
8 not a lease. "Capital lease" means a lease classified as a  
9 capital lease under generally accepted accounting principles.

10 12. "Local amount" means the first forty-four million four  
11 hundred forty-four thousand four hundred forty-five dollars of  
12 the acquisition cost of any major addition which is an  
13 electric power generating plant and the total acquisition cost  
14 of any other major addition.

15 13. "Local taxing district" means a city, county,  
16 community college, school district, or other taxing district,  
17 located in this state and authorized to certify a levy on  
18 property located within such district for the payment of bonds  
19 and interest or other obligations of such district.

20 14. "Low capacity factor electric power generating plant"  
21 means, for any tax year, an electric power generating plant,  
22 with the exception of an electric power generating plant owned  
23 or leased by an electric company, an electric cooperative, or  
24 a municipal utility, which operated during the preceding  
25 calendar year at a net capacity factor of twenty percent or  
26 less. "Net capacity factor" means net actual generation  
27 during the preceding calendar year divided by the product of  
28 nameplate capacity times the number of hours the plant was in  
29 the active state during the preceding calendar year. Upon  
30 commissioning, a plant is in the active state until it is  
31 decommissioned. "Net actual generation" means net electrical  
32 megawatt hours produced by a plant during the preceding  
33 calendar year.

34 15. "Major addition" means any acquisition on or after  
35 January 1, 1997, by a taxpayer, by transfer of ownership,

1 self-construction, or capital lease of any interest in any of  
2 the following:

3 a. A building in this state where the acquisition cost of  
4 all interests acquired exceeds ten million dollars.

5 b. An electric power generating plant where the  
6 acquisition cost of all interests acquired exceeds ten million  
7 dollars. For purposes of this paragraph, "electric power  
8 generating plant" means each nameplate rated electric power  
9 generating plant owned solely or jointly by any person or  
10 electric power facility financed under the provisions of  
11 chapter 28F in which electrical energy is produced from other  
12 forms of energy, including all equipment used in the  
13 production of such energy through its step-up transformer.

14 c. Natural gas operating property within a local taxing  
15 district where the acquisition cost of all interests acquired  
16 exceeds one million dollars.

17 d. Any operating property in this state by a person not  
18 previously subject to taxation under this chapter.

19 For purposes of this chapter, the acquisition cost of an  
20 asset acquired by capital lease is its capitalized value  
21 determined under generally accepted accounting principles.

22 16. "Municipal electric cooperative association" means an  
23 electric cooperative, the membership of which is composed  
24 entirely of municipal utilities.

25 17. "Municipal utility" means all or part of an electric  
26 light and power plant system or a natural gas system, either  
27 of which is owned by a city, including all land, easements,  
28 rights-of-way, fixtures, equipment, accessories, improvements,  
29 appurtenances, and other property necessary or useful for the  
30 operation of the municipal utility.

31 18. "Natural gas company" means a person that owns,  
32 operates, or is engaged primarily in operating or utilizing  
33 pipelines for the purpose of distributing natural gas to  
34 consumers located within this state, excluding a gas  
35 distributing plant or company located entirely within any city

1 and not a part of a pipeline transportation company. "Natural  
2 gas company" includes a combination natural gas company and  
3 electric company. "Natural gas company" does not include a  
4 municipal utility.

5 19. a. "Natural gas competitive service area" means any  
6 of the fifty-two natural gas competitive service areas  
7 described as follows:

8 (1) Each of the following municipal natural gas  
9 competitive service areas:

10 (a) Taylor county, except for those areas of Taylor county  
11 which are contained within another municipal natural gas  
12 competitive service area as described in this subsection.

13 (b) The city of Brighton in Washington county and the area  
14 within two miles of the city limits plus sections 5, 6, 7, 8,  
15 17, 18, 19, 20, 29, and 30 in Brighton township; sections 19,  
16 30, and 33 in Franklin township; sections 1, 2, 11, 12, 13,  
17 14, 23, 24, 25, and 36 in Dutch Creek township; and sections  
18 25, 26, 35, and 36 in Seventy-Six township.

19 (c) Davis county.

20 (d) The city of Brooklyn in Poweshiek county and the area  
21 within two miles of the city limits.

22 (e) The city of Cascade in Dubuque county and the area  
23 within two miles of the city limits.

24 (f) The city of Cedar Falls in Black Hawk county and the  
25 area within one mile of the city limits, not including any  
26 part of the city of Waterloo.

27 (g) The city of Clearfield in Taylor county and the area  
28 within two miles of the city limits and sections 20, 21, 26,  
29 and 27 of Platte township, Grant township in Taylor county,  
30 and Grant township in Ringgold county.

31 (h) The south half of Carroll county and sections 3 and 4  
32 of Orange township in Guthrie county.

33 (i) Adams county, except those areas of Adams county which  
34 are contained within another municipal natural gas competitive  
35 service area as defined in this subsection.

- 1 (j) The city of Emmetsburg in Palo Alto county and the  
2 area within two miles of the city limits.
- 3 (k) The city of Everly, in Clay county and the area within  
4 two miles of the city limits.
- 5 (l) The city of Fairbank and the area within two miles of  
6 the city limits plus the area one-quarter mile on either side  
7 of the county line road, Highway 281, from Fairbank to the  
8 intersection of Outer Road and Tenth Street, proceeding  
9 twenty-eight hundredths of a mile north in Buchanan and  
10 Fayette counties.
- 11 (m) The city of Gilmore City in Pocahontas and Humboldt  
12 counties and the area within two miles of the city limits.
- 13 (n) The city of Graettinger in Palo Alto county and the  
14 area within two miles of the city limits.
- 15 (o) The city of Guthrie Center, in Guthrie county and the  
16 area within one mile of the city limits.
- 17 (p) The city of Harlan in Shelby county and the area  
18 within two miles of the city limits.
- 19 (q) The city of Hartley in O'Brien county and the area  
20 within one mile of the city limits, except the eastern one-  
21 half of section four in Omega township.
- 22 (r) The city of Hawarden in Sioux county and the area  
23 within two miles of the city limits.
- 24 (s) The city of Lake Park plus Silver Lake township in  
25 Dickinson county.
- 26 (t) Fayette and New Buda townships in Decatur county.
- 27 (u) The city of Lenox in Taylor county including section 1  
28 of Platte township in Taylor county and the townships of Carl,  
29 Grant, Mercer, Colony, Union, and Prescott in Adams county.
- 30 (v) Grand River township in Wayne county.
- 31 (w) New Hope township in Union county and Monroe township  
32 in Madison county.
- 33 (x) Ewoldt and Eden townships in Carroll county and Iowa  
34 township in Crawford county.
- 35 (y) The city of Montezuma in Poweshiek county and the area

1 within two miles of the city limits plus Jackson township in  
2 Poweshiek county except the city of Barnes City, Pleasant  
3 Grove and Monroe townships in Mahaska county except the city  
4 of Barnes City.

5 (z) Morning Sun township in Louisa county.

6 (aa) Wells and Washington townships in Appanoose county.

7 (ab) The city of Osage in Mitchell county and the area  
8 within two miles of the city limits.

9 (ac) The city of Prescott in Adams county and the area  
10 within two miles of the city limits.

11 (ad) The city of Preston in Jackson county and the area  
12 within two miles of the city limits.

13 (ae) The city of Remsen in Plymouth county and the area  
14 within two miles of the city limits.

15 (af) The city of Rock Rapids in Lyon county and the area  
16 within two miles of the city limits.

17 (ag) The city of Rolfe in Pocahontas county and the area  
18 within two miles of the city limits.

19 (ah) The city of Sabula in Jackson county and the area  
20 within two miles of the city limits.

21 (ai) The city of Sac City in Sac county and the area  
22 within two miles of the city limits.

23 (aj) The city of Sanborn in O'Brien county and the area  
24 within two miles of the city limits.

25 (ak) The city of Sioux Center in Sioux county and the area  
26 within two miles of the city limits.

27 (al) The city of Tipton in Cedar county and the area  
28 within two miles of the city limits.

29 (am) The city of Waukee in Dallas county.

30 (an) The city of Wayland plus Jefferson and Trenton  
31 townships in Henry county.

32 (ao) Seventy-Six and Lime Creek townships in Washington  
33 county except for those areas of Seventy-Six township which  
34 are contained within another municipal natural gas competitive  
35 service area as defined in this subsection.



- 1 (ap) The city of West Bend in Kossuth and Palo Alto  
2 counties and the area within two miles of the city limits.
- 3 (aq) The city of Whittemore in Kossuth county and the area  
4 within two miles of the city limits.
- 5 (ar) Scott, Canaan, and Wayne townships in Henry county.
- 6 (as) The city of Woodbine in Harrison county and the area  
7 within two miles of the city limits.
- 8 (at) Nishnabotna township in Crawford county.
- 9 (2) The natural gas competitive service area, excluding  
10 any municipal natural gas competitive service area described  
11 in subparagraph (1) and consisting of Sioux county; Plymouth  
12 county; Woodbury county; Ida county; Harrison county; Shelby  
13 county; Audubon county; Palo Alto county; Humboldt county;  
14 Mahaska county; Scott county; Lyon county except Wheeler,  
15 Dale, Liberal, Grant, Midland, and Elgin townships; O'Brien  
16 county except Union, Dale, Summit, Highland, Franklin, and  
17 Center townships; Cherokee county except Cherokee and Pilot  
18 townships; Monona county except Franklin township and the  
19 south half of Ashton township; Pottawattamie county except  
20 Crescent, Hazel Dell, Lake, Garner, Kane, and Lewis townships;  
21 Mills county except Glenwood and Center townships; Montgomery  
22 county except Douglas, Washington, and East townships; Page  
23 county except Valley, Douglas, Nodaway, Nebraska, Harlan, East  
24 River, Amity, and Buchanan townships; Fremont county except  
25 Green, Scott, Sidney, Benton, Washington, and Madison  
26 townships; Brighton and Pleasant townships in Cass county; Sac  
27 county except Clinton, Wall Lake, Coon Valley, Levey, Viola,  
28 and Sac townships; Newell township in Buena Vista county;  
29 Calhoun county except Reading township; Denmark township in  
30 Emmet county; Kossuth county except Eagle, Grant, Springfield,  
31 Hebron, Swea, Harrison, Ledyard, Lincoln, Seneca, Greenwood,  
32 Ramsey, and German townships; Webster county except Roland,  
33 Clay, Burnside, Yell, Webster, Gowrie, Lost Grove, Dayton, and  
34 Hardin townships; Guthrie county except Grant, Thompson, and  
35 Beaver townships; Union township in Union county; Madison

1 county except Ohio and New Hope townships; Warren county  
2 except Virginia, Squaw, Liberty, and White Breast townships;  
3 Cedar, Union, Bluff Creek, and Pleasant townships in Monroe  
4 county; Marion county except Lake Prairie, Knoxville, Summit,  
5 and Union townships; Dallas county except Des Moines and Grant  
6 townships; Polk county except sections 4, 5, 6, 7, 8, 9, 16,  
7 17, and 18 in Lincoln township and the city of Grimes, and  
8 sections 1, 2, 3, 10, 11, 12, 13, 14, and 15 in Union  
9 township; Poweshiek, Washington, Mound Prairie, Des Moines,  
10 Elk Creek, and Fairview townships in Jasper county; Wright  
11 county except Belmond and Pleasant townships; Geneseo township  
12 in Cerro Gordo county; Franklin county except Wisner and Scott  
13 townships and the city of Coulter; Butler county except  
14 Bennezette, Coldwater, Dayton, and Fremont townships; Floyd  
15 county except Rock Grove, Rudd, Rockford, Ulster, Scott, and  
16 Union townships; Branford township in Chickasaw county; Bremer  
17 county except Frederika, LeRoy, Sumner No. 2, Fremont, Dayton,  
18 Maxfield, and Franklin townships; Perry, Washington, Westburg,  
19 and Sumner townships in Buchanan county; Black Hawk county  
20 except Big Creek township; Fremont township in Benton county;  
21 Wapello county except Washington township; Benton and Steady  
22 Run townships in Keokuk county; the city of Barnes City in  
23 Poweshiek county; Iowa township in Washington county; Johnson  
24 county except Fremont township; Linn county except Grant  
25 Spring Grove, Jackson, Boulder, Washington, Monroe township  
26 west and north of Otter Creek and County Home Road, Otter  
27 Creek, Maine, Buffalo, Fayette, and Clinton townships;  
28 Farmington township in Cedar county; Wapsinonoc, Goshen,  
29 Moscow, Wilton, and Fulton townships in Muscatine county; and  
30 Lee county except Des Moines, Montrose, Keokuk, and Jackson  
31 townships.

32 (3) The natural gas competitive service area, excluding  
33 any municipal natural gas competitive service areas described  
34 in subparagraph (1) and consisting of that part of Kossuth  
35 county not described in subparagraph (2); Lincoln and Buffalo

1 townships in Winnebago county; Worth county except Silver  
2 Lake, Hartland, Bristol, Brookfield, Fertile, and Danville  
3 townships; Cerro Gordo county except Grimes, Pleasant Valley,  
4 and Dougherty townships; Rock Grove and Rudd townships in  
5 Floyd county; Eden, Camanche, and Hampshire townships and the  
6 city of Clinton in Clinton county; and Stacyville and Union  
7 townships in Mitchell county.

8 (4) The natural gas competitive service area, excluding  
9 any municipal natural gas service areas described in  
10 subparagraph (1) and consisting of Franklin township and the  
11 South Half of Ashton township in Monona county; Crescent,  
12 Hazel Dell, Lake, Garner, Kane, and Lewis townships in  
13 Pottawattamie county; Glenwood and Center townships in Mills  
14 county; Green, Scott, Sidney, Benton, Washington, and Madison  
15 townships in Fremont county; Cass, Bear Grove, Union, Noble,  
16 Edna, Victoria, Massena, Lincoln, and Grant townships in Cass  
17 county; Glidden township in Carroll county; Summit township in  
18 Adair county; Grant township in Guthrie county; Crawford  
19 county except Nishnabotna township; Clinton, Wall Lake, Coon  
20 Valley, Levey, Viola, and Sac township in Sac county; Reading  
21 township in Calhoun county; Marshall, Sherman, Roosevelt,  
22 Dover, Grant, Lincoln, and Cedar townships in Pocahontas  
23 county; Union, Dale, Summit, Highland, Franklin, and Center  
24 townships in O'Brien county; the north half of Clay county  
25 plus Clay township; Dickinson county; Emmet county except  
26 Denmark, Armstrong Grove, and Iowa Lake townships; Greene  
27 county except Bristol, Hardin, Jackson, and Grant townships;  
28 Boone county except Worth, Colfax, Des Moines, Jackson, Dodge,  
29 and Harrison townships; Des Moines and Grant townships in  
30 Dallas county; Roland, Clay, Burnside, Yell, Webster, Gowrie,  
31 Lost Grove, Dayton, and Newark townships in Webster county;  
32 Clear Lake, Hamilton, Webster, Freedom, Independence, Cass,  
33 and Fremont townships in Hamilton county; Ell, Madison, and  
34 Ellington townships in Hancock county; Winnebago county except  
35 Lincoln and Buffalo townships; Silver Lake, Hartland, Bristol,

1 Brookfield, Fertile, and Danville townships in Worth county;  
2 Etna township in Hardin county; Lafayette township and the  
3 west one-half of Howard township in Story county; the city of  
4 Grimes in Polk county; Independence, Malaka, Mariposa, Hickory  
5 Grove, Rock Creek, Kellogg, Newton, Sherman, Palo Alto, Buena  
6 Vista, and Richland townships in Jasper county; Palermo,  
7 Grant, and Fairfield townships in Grundy county; Bennezette,  
8 Coldwater, Dayton, and Fremont townships in Butler county;  
9 Rockford, Ulster, Scott, and Union townships in Floyd county;  
10 St. Ansgar and Mitchell townships in Mitchell county; Howard  
11 county; Chickasaw county except Branford township; Frederika,  
12 LeRoy, Sumner No. 2, Fremont, Dayton, Maxfield, and Franklin  
13 townships in Bremer county; Big Creek township in Black Hawk  
14 county; Brown township in Linn county; Madison township and  
15 the east half of Buffalo township in Buchanan county; Fayette  
16 county except Harlan, Fremont, Oran, and Jefferson townships;  
17 Winneshiek county; Alamakee county; Clayton county; Delaware  
18 county except Adams and Hazel Green townships; Dubuque county;  
19 Jones county except Rome, Hale, Oxford, and the east half of  
20 Greenfield townships; and Jackson county.

21 (5) The natural gas competitive service area consisting of  
22 Des Moines, Montrose, Keokuk, and Jackson townships in Lee  
23 county.

24 (6) The natural gas competitive service area consisting of  
25 the city of Allerton and the area within two miles of the city  
26 limits.

27 (7) The natural gas competitive service area consisting of  
28 all of Iowa not contained in any of the other natural gas  
29 competitive service areas described in this paragraph.

30 b. "Township" includes any city or part of a city located  
31 within the exterior boundaries of that township.

32 c. References to city limits contained in this subsection  
33 mean those city limits as they existed on January 1, 1998.

34 20. "Operating property" means all property owned by or  
35 leased to an electric company, electric cooperative, municipal

1 utility, or natural gas company, not otherwise taxed  
2 separately, which is necessary to and without which the  
3 company could not perform the activities of an electric  
4 company, electric cooperative, municipal utility, or natural  
5 gas company.

6 21. "Pole miles" means miles measured along the line of  
7 poles, structures, or towers carrying electric conductors  
8 regardless of the number of conductors or circuits carried,  
9 and miles of conduit bank, regardless of number of conduits or  
10 ducts, of all sizes and types, including manholes and  
11 handholes. "Conduit bank" means a length of one or more  
12 underground conduits or ducts, whether or not enclosed in  
13 concrete, designed to contain underground cables, including a  
14 gallery or cable tunnel for power cables.

15 22. "Purchasing member" means a municipal utility which  
16 purchases electricity from a municipal electric cooperative  
17 association of which it is a member.

18 23. "Replacement tax" means the excise tax imposed on the  
19 generation, transmission, delivery, consumption, or use of  
20 electricity or natural gas under sections 437A.4, 437A.5,  
21 437A.6, or 437A.7.

22 24. "Self-generator" means a person, other than an  
23 electric company, natural gas company, electric cooperative,  
24 or municipal utility, who generates, by means of an on-site  
25 facility wholly owned by or leased in its entirety to such  
26 person, electricity solely for its own consumption, except for  
27 inadvertent unscheduled deliveries to the electric utility  
28 furnishing electric service to that self-generator. A person  
29 who generates electricity which is consumed by any other  
30 person, including any owner, shareholder, member, beneficiary,  
31 partner, or associate of the person who generates electricity,  
32 is not a self-generator. For purposes of this subsection,  
33 "on-site facility" means an electric power generating plant  
34 that is wholly owned by or leased in its entirety to a person  
35 and used to generate electricity solely for consumption by

1 such person on the same parcel of land on which such plant is  
2 located or on a contiguous parcel of land. For purposes of  
3 this subsection, "parcel of land" includes each separate  
4 parcel of land shown on the tax list.

5 25. "Statewide amount" means the acquisition cost of any  
6 major addition which is not a local amount.

7 26. "Taxpayer" means an electric company, natural gas  
8 company, electric cooperative, municipal utility, or other  
9 person subject to the replacement tax imposed under section  
10 437A.4, 437A.5, 437A.6, or 437A.7.

11 27. "Tax year" means a calendar year beginning January 1  
12 and ending December 31.

13 28. "Transfer replacement tax" means the tax imposed in a  
14 competitive service area of a municipal utility which replaces  
15 transfers made by the municipal utility in accordance with  
16 section 384.89.

17 29. "Transmission line" means a line, wire, or cable which  
18 is capable of operating at an electric voltage of at least  
19 thirty-four and one-half kilovolts.

20 30. "Utilities board" means the utilities board created in  
21 section 474.1.

## 22 SUBCHAPTER 2

### 23 GENERATION, TRANSMISSION, AND DELIVERY TAXES

24 Sec. 5. NEW SECTION. 437A.4 REPLACEMENT TAX IMPOSED ON  
25 DELIVERY OF ELECTRICITY.

26 1. A replacement delivery tax is imposed on every person  
27 who makes a delivery of electricity to a consumer within this  
28 state. The replacement delivery tax imposed by this section  
29 is equal to the sum of the following:

30 a. The number of kilowatt-hours of electricity delivered  
31 to consumers by the taxpayer within each electric competitive  
32 service area during the tax year multiplied by the electric  
33 replacement delivery tax rate in effect for each such electric  
34 competitive service area.

35 b. Where applicable, and in addition to the tax imposed by

1 paragraph "a", the number of kilowatt-hours of electricity  
2 delivered to consumers by the taxpayer within each electric  
3 competitive service area during the tax year multiplied by the  
4 electric transfer replacement tax rate for each such electric  
5 competitive service area.

6 2. If electricity is consumed in this state, whether such  
7 electricity is purchased, transferred, or self-generated, and  
8 the delivery, purchase, transference, or self-generation of  
9 such electricity is not subject to the tax imposed under  
10 subsection 1, a tax is imposed on the consumer at the rates  
11 prescribed under subsection 1.

12 3. Electric replacement delivery tax rates shall be  
13 calculated by the director for each electric competitive  
14 service area as follows:

15 a. The director shall determine the average centrally  
16 assessed property tax liability allocated to electric service  
17 of each taxpayer, other than a municipal utility, principally  
18 serving an electric competitive service area and of each  
19 generation and transmission electric cooperative for the  
20 assessment years 1992 through 1996 based on property tax  
21 payments made. In the case of a municipal utility, the  
22 average centrally assessed property tax liability allocated to  
23 electric service is the centrally assessed property tax  
24 liability of such municipal utility allocated to electric  
25 service for the 1996 assessment year based on property tax  
26 payments made.

27 b. The director shall determine, for each taxpayer, the  
28 number of kilowatt-hours of electricity generated which would  
29 have been subject to taxation under section 437A.6, the number  
30 of pole miles which would have been subject to taxation under  
31 section 437A.7, and the number of kilowatt-hours of  
32 electricity delivered to consumers which would have been  
33 subject to taxation under this section in calendar year 1997,  
34 had such sections been in effect for calendar year 1997.

35 c. The director shall determine the electric generation,

1 transmission, and delivery tax components of the average  
2 centrally assessed property tax liability determined in  
3 paragraph "a" for each electric competitive service area as  
4 follows:

5 (1) The electric generation tax component for an electric  
6 competitive service area shall be computed by multiplying the  
7 tax rate set forth in section 437A.6 by the number of  
8 kilowatt-hours of electricity generated by the taxpayer  
9 principally serving such electric competitive service area  
10 which would have been subject to taxation under section 437A.6  
11 in calendar year 1997, had that section been in effect for  
12 calendar year 1997.

13 (2) The electric transmission tax component for an  
14 electric competitive service area shall be computed by  
15 multiplying the tax rates set forth in section 437A.7 by the  
16 number of pole miles for each line voltage owned or leased by  
17 the taxpayer principally serving such electric competitive  
18 service area which would have been subject to taxation under  
19 section 437A.7 on December 31, 1997, had that section been in  
20 effect for calendar year 1997.

21 (3) The electric delivery tax component for an electric  
22 competitive service area shall be the average centrally  
23 assessed property tax liability allocated to electric service  
24 of the taxpayer principally serving such electric competitive  
25 service area less the electric generation and transmission tax  
26 components computed for such electric competitive service  
27 area.

28 (4) The electric delivery tax component for each electric  
29 competitive service area shall be adjusted, as necessary, to  
30 assign the excess property tax liability of each generation  
31 and transmission electric cooperative to the electric  
32 competitive service areas principally served on January 1,  
33 1998, by its distribution electric cooperative members and by  
34 those municipal utilities which were purchasing members of a  
35 municipal electric cooperative association that is a member of



1 the generation and transmission electric cooperative. Such  
2 assignment of excess property tax liability of each such  
3 generation and transmission electric cooperative shall be made  
4 in proportion to the appropriate wholesale rate charges in  
5 calendar year 1997 to its distribution electric cooperative  
6 members and municipal electric cooperative association members  
7 which purchased electricity from the generation and  
8 transmission electric cooperative. Any amount assignable to a  
9 municipal electric cooperative association shall be reassigned  
10 to the electric competitive service areas served by such  
11 association's purchasing municipal utility members and shall  
12 be allocated among them in proportion to the appropriate  
13 wholesale rate charges in calendar year 1997 by such municipal  
14 electric cooperative association to its purchasing municipal  
15 utility members. For purposes of this subsection, "excess  
16 property tax liability" means the amount by which the average  
17 centrally assessed property tax liability for the assessment  
18 years 1992 through 1996 of a generation and transmission  
19 electric cooperative exceeds the tentative generation and  
20 transmission taxes which would have been imposed on such  
21 generation and transmission electric cooperative under  
22 sections 437A.6 and 437A.7 for calendar year 1997, had such  
23 taxes been in effect for calendar year 1997. An electric  
24 cooperative described in section 437A.7, subsection 2,  
25 paragraph "c", is deemed not to have any excess property tax  
26 liability.

27 d. The director shall determine an electric delivery tax  
28 rate for each electric competitive service area by dividing  
29 the electric delivery tax component for the electric  
30 competitive service area, as adjusted by paragraph "c",  
31 subparagraph (4), by the number of kilowatt-hours delivered by  
32 the taxpayer principally serving the electric competitive  
33 service area to consumers in calendar year 1997, which would  
34 have been subject to taxation under this section if this  
35 section had been in effect for calendar year 1997.

1 4. Municipal electric transfer replacement tax rates shall  
2 be calculated annually by the city council of each city  
3 located within an electric competitive service area served by  
4 a municipal utility as of January 1, 1998, by dividing the  
5 average annual dollar amount of electric related transfers  
6 made pursuant to section 384.89 by the municipal utility  
7 serving the electric competitive service area, other than  
8 those transfers declared exempt from the transfer replacement  
9 tax by the city council, plus the municipal transfer  
10 replacement tax received by the municipality, if any, during  
11 the five immediately preceding calendar years by the number of  
12 kilowatt-hours of electricity delivered to consumers in the  
13 electric competitive service area during the immediately  
14 preceding calendar year which were subject to taxation under  
15 this section or which would have been subject to taxation  
16 under this section had it been in effect for such calendar  
17 year. The city council on its own motion, or in the case of a  
18 municipal utility governed by a board of trustees under  
19 chapter 388 upon a resolution of the board of trustees  
20 requesting such action, may declare any transfer or part of  
21 such transfer to be exempt from the transfer replacement tax  
22 under this section. Such rates shall be calculated and  
23 reported to the director on or before August 31 of each tax  
24 year.

25 5. A municipal utility taxpayer is entitled to a credit  
26 against the municipal electric transfer replacement tax equal  
27 to the average amount of electric-related transfers made by  
28 such municipal utility taxpayer under section 384.89, other  
29 than those transfers declared exempt from transfer replacement  
30 tax by the city council, during the preceding five calendar  
31 years.

32 6. The following are not subject to the replacement  
33 delivery tax imposed by subsections 1 and 2:

34 a. Delivery of electricity generated by a low capacity  
35 factor electric power generating plant.

1 b. Delivery of electricity to a city from such city's  
2 municipal utility, provided such electricity is used by the  
3 city for the public purposes of the city.

4 c. Electricity consumed by a state university or  
5 university of science and technology, provided such  
6 electricity was generated by property described in section  
7 427.1, subsection 1.

8 d. Electricity generated and consumed by a self-generator.

9 7. Notwithstanding subsection 1, the electric delivery tax  
10 rate applied to kilowatt-hours of electricity delivered by a  
11 taxpayer to utility property and facilities which are placed  
12 in service on or after January 1, 1998, and are owned by or  
13 leased to and initially served by such taxpayer shall be the  
14 electric delivery tax rate in effect for the electric  
15 competitive service area principally served by such utility  
16 property and facilities even though such utility property and  
17 facilities may be physically located in another electric  
18 competitive service area.

19 8. If for any tax year after calendar year 1997, the total  
20 taxable kilowatt-hours of electricity required to be reported  
21 by taxpayers pursuant to section 437A.8, subsection 1,  
22 paragraphs "a" and "b", with respect to any electric  
23 competitive service area, increases or decreases by more than  
24 the threshold percentage from the average of the base year  
25 amounts for that electric competitive service area during the  
26 immediately preceding five calendar years, the tax rate  
27 imposed under subsection 1, paragraph "a", and subsection 2,  
28 for that tax year shall be recalculated by the director for  
29 that electric competitive service area so that the total of  
30 the replacement electric delivery taxes required to be  
31 reported pursuant to section 437A.8, subsection 1, paragraph  
32 "e", for that electric competitive service area with respect  
33 to the tax imposed under subsection 1, paragraph "a", and  
34 subsection 2, shall be as follows:

35 a. If the number of kilowatt-hours of electricity required

1 to be reported increased by more than the threshold  
2 percentage, one hundred two percent of such taxes required to  
3 be reported by taxpayers for that electric competitive service  
4 area for the immediately preceding tax year.

5 b. If the number of kilowatt-hours of electricity required  
6 to be reported decreased by more than the threshold  
7 percentage, ninety-eight percent of such taxes required to be  
8 reported by taxpayers for that electric competitive service  
9 area for the immediately preceding tax year.

10 For purposes of paragraphs "a" and "b", in computing the  
11 tax rate under subsection 1, paragraph "a", and subsection 2,  
12 for tax year 1998, the director shall use the electric  
13 delivery tax component computed for the electric competitive  
14 service area pursuant to subsection 3, paragraph "c", in lieu  
15 of the taxes required to be reported for that electric  
16 competitive service area for the immediately preceding tax  
17 year.

18 The threshold percentage shall be determined annually and  
19 shall be eight percent for any electric competitive service  
20 area in which the average of the base year amounts for the  
21 preceding five calendar years does not exceed three billion  
22 kilowatt-hours, and ten percent for all other electric  
23 competitive service areas.

24 Any such recalculation of an electric delivery tax rate, if  
25 required, shall be made and the new rate shall be published in  
26 the Iowa administrative bulletin by the director by no later  
27 than May 31 following the tax year. The director shall adjust  
28 the tentative replacement tax imposed by subsection 1,  
29 paragraph "a", and subsection 2 required to be shown on any  
30 affected taxpayer's return pursuant to section 437A.8,  
31 subsection 1, paragraph "e", to reflect the adjusted delivery  
32 tax rate for the tax year, and report such adjustment to the  
33 affected taxpayer on or before June 30 following the tax year.  
34 The new electric delivery tax rate shall apply prospectively,  
35 until such time as further adjustment is required.

1 For purposes of this section, "base year amount" means for  
2 calendar years prior to tax year 1998, the sum of the  
3 kilowatt-hours of electricity delivered to consumers within an  
4 electric competitive service area by the taxpayer principally  
5 serving such electric competitive service area which would  
6 have been subject to taxation under this section had this  
7 section been in effect for those years; and for tax years  
8 after calendar year 1997, the taxable kilowatt-hours of  
9 electricity required to be reported by taxpayers pursuant to  
10 section 437A.8, subsection 1, paragraphs "a" and "b", with  
11 respect to any electric competitive service area.

12 9. a. After calendar year 1997, if a municipal electric  
13 cooperative association ceases to purchase electricity from  
14 the generation and transmission electric cooperative from  
15 which it purchased electricity in 1997, and for a period of  
16 one hundred eighty days after such purchases cease, no  
17 municipal utility member of such association purchases  
18 electricity from such generation and transmission electric  
19 cooperative, the excess property tax liability assigned  
20 pursuant to subsection 3, paragraph "c", subparagraph (4), to  
21 the electric competitive service areas principally served by  
22 the municipal utility members on January 1, 1998, shall be  
23 removed from the electric delivery tax component of those  
24 electric competitive service areas and the electric delivery  
25 tax rate for those electric competitive service areas shall be  
26 recalculated to reflect that change.

27 b. After calendar year 1997, if a municipal utility ceases  
28 to be a purchasing member of a municipal electric cooperative  
29 association which purchased electricity in calendar year 1997  
30 from a generation and transmission electric cooperative, and  
31 for a period of one hundred eighty days after the municipal  
32 utility ceases to be a purchasing member of such association  
33 such municipal utility does not purchase electricity from such  
34 generation and transmission electric cooperative, the excess  
35 property tax liability assigned pursuant to subsection 3,

1 paragraph "c", subparagraph (4), to the electric competitive  
2 service area principally served by the municipal utility on  
3 January 1, 1998, shall be removed from the electric delivery  
4 tax component of those electric competitive service areas and  
5 the electric delivery tax rate for those electric competitive  
6 service areas shall be recalculated to reflect that change.

7 c. If a recalculation has previously been made by the  
8 director pursuant to subsection 8 for an electric competitive  
9 service area described in this subsection, the recalculation  
10 required by this subsection shall be made by the director by  
11 modifying the most recent recalculation under subsection 8 to  
12 eliminate the excess property tax liability originally  
13 allocated to such electric competitive service area under  
14 subsection 3, paragraph "c", subparagraph (4).

15 d. Any recalculation required by this subsection shall be  
16 made and the new rate shall be published in the Iowa  
17 administrative bulletin by the director by May 31 of the  
18 calendar year during which the events described in paragraphs  
19 "a" and "b" are reported as provided in section 437A.8,  
20 subsection 1, paragraph "f". The new electric delivery tax  
21 rate shall be effective January 1 of the tax year in which it  
22 is published and shall apply prospectively, until such time as  
23 further adjustment is required.

24 10. The electric delivery tax rate in effect for each  
25 electric competitive service area shall be published by the  
26 director in the Iowa administrative bulletin on or before  
27 November 30, 1998, and annually after that date, during the  
28 last quarter of the tax year.

29 Sec. 6. NEW SECTION. 437A.5 REPLACEMENT TAX IMPOSED ON  
30 DELIVERY OF NATURAL GAS.

31 1. A replacement delivery tax is imposed on every person  
32 who makes a delivery of natural gas to a consumer within this  
33 state. The replacement delivery tax imposed by this section  
34 shall be equal to the sum of the following:

35 a. The number of therms of natural gas delivered to

1 consumers by the taxpayer within each natural gas competitive  
2 service area during the tax year multiplied by the natural gas  
3 delivery tax rate in effect for each such natural gas  
4 competitive service area.

5 b. Where applicable, and in addition to the tax imposed by  
6 paragraph "a", the number of therms of natural gas delivered  
7 to consumers by the taxpayer within each natural gas  
8 competitive service area during the tax year multiplied by the  
9 municipal natural gas transfer replacement tax rate for each  
10 such natural gas competitive service area.

11 2. If natural gas is consumed in this state, whether such  
12 natural gas is purchased or transferred, and the delivery,  
13 purchase, or transference of such natural gas is not subject  
14 to the tax imposed under subsection 1, a tax is imposed on the  
15 consumer at the rates prescribed under subsection 1.

16 3. Natural gas delivery tax rates shall be calculated by  
17 the director for each natural gas competitive service area as  
18 follows:

19 a. The director shall determine the average centrally  
20 assessed property tax liability allocated to natural gas  
21 service of each taxpayer, other than a municipal utility,  
22 principally serving a natural gas competitive service area for  
23 the assessment years 1992 through 1996 based on property tax  
24 payments made. In the case of a municipal utility, the  
25 average centrally assessed property tax liability allocated to  
26 natural gas service is the centrally assessed property tax  
27 liability of such municipal utility allocated to natural gas  
28 service for the 1996 assessment year based on property tax  
29 payments made. For purposes of this subsection, taxpayer does  
30 not include a pipeline company defined in section 479A.2.

31 b. The director shall determine for each taxpayer the  
32 number of therms of natural gas delivered to consumers which  
33 would have been subject to taxation under this section in  
34 calendar year 1997 had this section been in effect for  
35 calendar year 1997.

1 c. The director shall determine a natural gas delivery tax  
2 rate for each natural gas competitive service area by dividing  
3 the average centrally assessed property tax liability  
4 allocated to natural gas service of the taxpayer principally  
5 serving the natural gas competitive service area by the number  
6 of therms of natural gas delivered by such taxpayer to  
7 consumers in calendar year 1997 which would have been subject  
8 to taxation under this section had such section been in effect  
9 for calendar year 1997.

10 4. Municipal natural gas transfer replacement tax rates  
11 shall be calculated annually by the city council of each city  
12 located within a natural gas competitive service area served  
13 by a municipal utility as of January 1, 1998, by dividing the  
14 average annual dollar amount of natural gas related transfers  
15 made pursuant to section 384.89 by the municipal utility  
16 serving the natural gas competitive service area, other than  
17 those transfers declared exempt from the transfer replacement  
18 tax by the city council, plus the municipal transfer  
19 replacement tax received by the municipality, if any, during  
20 the five immediately preceding calendar years, by the number  
21 of therms of natural gas delivered to consumers in the natural  
22 gas competitive service area during the immediately preceding  
23 calendar year which were subject to taxation under this  
24 section or which would have been subject to taxation under  
25 this section had it been in effect for such calendar year.  
26 The city council on its own motion, or in the case of a  
27 municipal utility governed by a board of trustees under  
28 chapter 388 upon a resolution of the board of trustees  
29 requesting such action, may declare any transfer or part of  
30 such transfer to be exempt from the transfer replacement tax  
31 under this section. Such rates shall be calculated and  
32 reported to the director on or before August 31 of each tax  
33 year.

34 5. A municipal utility taxpayer is entitled to a credit  
35 against the municipal natural gas transfer replacement tax



1 equal to the average amount of natural gas related transfers  
2 made by such municipal utility taxpayer under section 384.89,  
3 other than those transfers declared exempt from transfer  
4 replacement tax by the city council, during the preceding five  
5 calendar years.

6 6. Notwithstanding subsection 1, the natural gas delivery  
7 tax rate applied to therms of natural gas delivered by a  
8 taxpayer to utility property and facilities which are placed  
9 in service on or after January 1, 1998, and which are owned by  
10 or leased to and initially served by such taxpayer shall be  
11 the natural gas delivery tax rate in effect for the natural  
12 gas competitive service area principally served by such  
13 utility property and facilities even though such utility  
14 property and facilities may be physically located in another  
15 natural gas competitive service area.

16 7. Delivery of natural gas to a city from such city's  
17 municipal utility is not subject to the replacement delivery  
18 tax imposed under subsection 1, paragraph "a", and subsection  
19 2, provided such natural gas is used by the city for the  
20 public purposes of the city.

21 Section 437A.5, subsection 2, does not apply to natural gas  
22 consumed by a person, other than an electric company, natural  
23 gas company, electric cooperative, or municipal utility,  
24 acquired by means of facilities owned by or leased to such  
25 person on January 1, 1998, which were physically attached to  
26 pipelines that are not permitted pursuant to chapter 479 and  
27 used by such person for the purpose of bypassing the local  
28 natural gas company or municipal utility.

29 8. If, for any tax year after calendar year 1997, the  
30 total taxable therms of natural gas required to be reported by  
31 taxpayers pursuant to section 437A.8, subsection 1, paragraphs  
32 "a" and "b", with respect to any natural gas competitive  
33 service area increases or decreases by more than the threshold  
34 percentage from the average of the base year amounts for that  
35 natural gas competitive service area during the immediately

1 preceding five calendar years, the tax rate imposed under  
2 subsection 1, paragraph "a", and subsection 2 for that tax  
3 year shall be recalculated by the director for that natural  
4 gas competitive service area so that the total of the  
5 replacement natural gas delivery taxes required to be reported  
6 pursuant to section 437A.8, subsection 1, paragraph "e", for  
7 that natural gas competitive service area with respect to the  
8 tax imposed under subsection 1, paragraph "a", and subsection  
9 2 shall be as follows:

10 a. If the number of therms of natural gas required to be  
11 reported increased by more than the threshold percentage, one  
12 hundred two percent of such taxes required to be reported by  
13 taxpayers for that natural gas competitive service area for  
14 the immediately preceding tax year.

15 b. If the number of therms of natural gas required to be  
16 reported decreased by more than the threshold percentage,  
17 ninety-eight percent of such taxes required to be reported by  
18 taxpayers for that natural gas competitive service area for  
19 the immediately preceding tax year.

20 c. For purposes of paragraphs "a" and "b", in computing  
21 the tax rate under subsection 1, paragraph "a", and subsection  
22 2 for calendar year 1998, the director shall use the average  
23 centrally assessed property tax liability allocated to natural  
24 gas service computed for the natural gas competitive service  
25 area pursuant to subsection 3, paragraph "a", in lieu of the  
26 taxes required to be reported for that natural gas competitive  
27 service area for the immediately preceding tax year.

28 The threshold percentage shall be determined annually and  
29 shall be eight percent for any natural gas competitive service  
30 area in which the average of the base year amounts for the  
31 preceding five calendar years does not exceed two hundred  
32 fifty million therms, and ten percent for all other natural  
33 gas competitive service areas.

34 Recalculation of a natural gas delivery tax rate, if  
35 required, shall be made and the new rate published in the Iowa

1 administrative bulletin by the director by no later than May  
2 31 following the tax year. The director shall adjust the  
3 tentative replacement tax imposed by subsection 1, paragraph  
4 "a", and subsection 2 required to be shown on any affected  
5 taxpayer's return pursuant to section 437A.8, subsection 1,  
6 paragraph "e", to reflect the adjusted delivery tax rate for  
7 the tax year, and report such adjustment to the affected  
8 taxpayer on or before June 30 following the tax year. The new  
9 natural gas delivery tax rate shall apply prospectively, until  
10 such time as further adjustment is required.

11 For purposes of this subsection, "base year amount" means  
12 for calendar years prior to tax year 1998, the sum of the  
13 therms of natural gas delivered to consumers within a natural  
14 gas competitive service area by the taxpayer principally  
15 serving such natural gas competitive service area which would  
16 have been subject to taxation under this section had this  
17 section been in effect for those years; and for tax years  
18 after calendar year 1997, the taxable therms of natural gas  
19 required to be reported by taxpayers pursuant to section  
20 437A.8, subsection 1, paragraphs "a" and "b", with respect to  
21 any natural gas competitive service area.

22 9. The natural gas delivery tax rate in effect for each  
23 natural gas competitive service area shall be published by the  
24 director in the Iowa administrative bulletin on or before  
25 November 30, 1998, and annually after that date, during the  
26 last quarter of the tax year.

27 Sec. 7. NEW SECTION. 437A.6 REPLACEMENT TAX IMPOSED ON  
28 ELECTRIC GENERATION.

29 1. A replacement generation tax of six hundredths of a  
30 cent per kilowatt-hour of electricity generated within this  
31 state during the tax year is imposed on every person  
32 generating electricity, except electricity generated by the  
33 following:

- 34 a. A low capacity factor electric power generating plant.
- 35 b. Facilities owned by or leased to a municipal utility

1 when devoted to public use and not held for pecuniary profit,  
2 except facilities of a municipally owned electric utility held  
3 under joint ownership or lease and facilities of an electric  
4 power facility financed under chapter 28F.

5 c. Wind energy conversion property subject to section  
6 427B.26.

7 d. Methane gas conversion property subject to section  
8 427.1, subsection 29.

9 e. Facilities owned by or leased to a state university or  
10 university of science and technology, to the extent  
11 electricity generated by such facilities is consumed  
12 exclusively by such state university or university of science  
13 and technology.

14 f. On-site facilities wholly owned by or leased in their  
15 entirety to a self-generator.

16 2. For purposes of this section, if a generation facility  
17 is jointly owned or leased, the taxpayer shall compute the  
18 number of kilowatt-hours of electricity subject to the  
19 replacement generation tax by multiplying the taxpayer's  
20 percentage interest in the jointly held generation facility by  
21 the number of kilowatt-hours of electricity generated.

22 Sec. 8. NEW SECTION. 437A.7 REPLACEMENT TAX IMPOSED ON  
23 ELECTRIC TRANSMISSION.

24 1. A replacement transmission tax is imposed on every  
25 person owning or leasing transmission lines within this state  
26 and shall be equal to the sum of all of the following:

27 a. Five hundred fifty dollars per pole mile of  
28 transmission line owned or leased by the taxpayer not  
29 exceeding one hundred kilovolts.

30 b. Three thousand dollars per pole mile of transmission  
31 line owned or leased by the taxpayer greater than one hundred  
32 kilovolts but not exceeding one hundred fifty kilovolts.

33 c. Seven hundred dollars per pole mile of transmission  
34 line owned or leased by the taxpayer greater than one hundred  
35 fifty kilovolts but not exceeding three hundred kilovolts.

1 d. Seven thousand dollars per pole mile of transmission  
2 line owned or leased by the taxpayer greater than three  
3 hundred kilovolts.

4 The replacement transmission tax shall be calculated on the  
5 basis of pole miles of transmission line owned or leased by  
6 the taxpayer on the last day of the tax year.

7 2. The following shall not be subject to the replacement  
8 transmission tax:

9 a. Transmission lines owned by or leased to a municipal  
10 utility when devoted to public use and not for pecuniary  
11 profit, except transmission lines of a municipally owned  
12 electric utility held under joint ownership and transmission  
13 lines of an electric power facility financed under chapter  
14 28F.

15 b. Transmission lines owned by or leased to a lessor when  
16 the lessee or sublessee of such transmission lines is subject  
17 to the replacement transmission tax.

18 c. Any electric cooperative which owns, leases, or owns  
19 and leases in total more than fifty pole miles and less than  
20 seven hundred fifty pole miles of transmission lines in this  
21 state. Chapter 437 shall apply to such electric cooperatives.

22 d. Transmission lines owned by or leased to a state  
23 university or university of science and technology, provided  
24 such transmission lines are used exclusively for the  
25 transmission of electricity consumed by such state university  
26 or university of science and technology.

27 e. Transmission lines owned by or leased to a person,  
28 other than a public utility, for which a franchise is not  
29 required under chapter 478.

30 3. For purposes of this section, if a transmission line is  
31 jointly owned or leased, the taxpayer shall compute the number  
32 of pole miles subject to the replacement transmission tax by  
33 multiplying the taxpayer's percentage interest in the jointly  
34 held transmission lines by the number of pole miles of such  
35 lines.

1     Sec. 9. NEW SECTION. 437A.8 RETURN AND PAYMENT  
2 REQUIREMENTS -- RATE ADJUSTMENTS.

3     1. Each taxpayer, on or before February 28 following a tax  
4 year, shall file with the director a return including, but not  
5 limited to, the following information:

6     a. The total taxable kilowatt-hours of electricity  
7 delivered by the taxpayer to consumers within each electric  
8 competitive service area during the tax year, and the total  
9 taxable therms of natural gas delivered by the taxpayer to  
10 consumers within each natural gas competitive service area  
11 during the tax year.

12    b. The total kilowatt-hours of electricity consumed by the  
13 taxpayer within each electric competitive service area during  
14 the tax year subject to tax under section 437A.4, subsection  
15 2, and the total therms of natural gas consumed by the  
16 taxpayer within each natural gas competitive service area  
17 during the tax year subject to tax under section 437A.5,  
18 subsection 2.

19    c. The total taxable kilowatt-hours of electricity  
20 generated by the taxpayer in Iowa during the tax year.

21    d. The total taxable pole miles of electric transmission  
22 lines in Iowa, by kilovolt, owned or leased by the taxpayer on  
23 the last day of the tax year.

24    e. The tentative replacement taxes imposed by section  
25 437A.4, subsection 1, paragraph "a", section 437A.4,  
26 subsection 2, section 437A.5, subsection 1, paragraph "a",  
27 section 437A.5, subsection 2, and sections 437A.6 and 437A.7,  
28 due for the tax year.

29    f. For purposes of a municipal utility which is a member  
30 of a municipal electric cooperative association, the  
31 occurrence on or before September 1 of the preceding calendar  
32 year of an event described in section 437A.4, subsection 9,  
33 paragraph "a" or "b", and the date on which the one-hundred-  
34 eighty-day requirement under such paragraph was met.

35    2. Each taxpayer subject to a municipal transfer

1 replacement tax, on or before February 28 following a tax  
2 year, shall file with the chief financial officer of each city  
3 located within an electric or natural gas competitive service  
4 area served by a municipal utility as of January 1, 1998, a  
5 return including, but not limited to, the following  
6 information:

7 a. The total taxable kilowatt-hours of electricity  
8 delivered by the taxpayer within each electric competitive  
9 service area described in section 437A.4, subsection 4, during  
10 the tax year and the total taxable therms of natural gas  
11 delivered by the taxpayer within each natural gas competitive  
12 service area described in section 437A.5, subsection 4, during  
13 the tax year.

14 b. For a municipal utility taxpayer, the total transfers  
15 made by the taxpayer under section 384.89 within each  
16 competitive service area during the preceding calendar year,  
17 allocated between electric-related transfers and natural gas-  
18 related transfers and total credits described in sections  
19 437A.4, subsection 5, and 437A.5, subsection 5.

20 c. The transfer replacement taxes imposed by sections  
21 437A.4, subsection 1, paragraph "b", and 437A.5, subsection 1,  
22 paragraph "b", due for the tax year.

23 3. A return shall be signed by an officer, or other person  
24 duly authorized by the taxpayer, and must be certified as  
25 correct and in accordance with forms and rules prescribed by  
26 the director in the case of a return filed pursuant to  
27 subsection 1, and in accordance with forms and rules  
28 prescribed by the chief financial officer of the city in the  
29 case of a return filed pursuant to subsection 2.

30 4. At the time of filing the return required by subsection  
31 1 with the director, the taxpayer shall calculate the  
32 tentative replacement tax due for the tax year. The director  
33 shall compute any adjustments to the replacement tax required  
34 by subsection 7 and by section 437A.4, subsection 8, and  
35 section 437A.5, subsection 8, and notify the taxpayer of any

1 such adjustments in accordance with the requirements of such  
2 provisions. The director and the department of management  
3 shall compute the allocation of replacement taxes among local  
4 taxing districts and report such allocations to county  
5 treasurers pursuant to section 437A.15. Based on such  
6 allocations, the treasurer of each county shall notify each  
7 taxpayer on or before August 31 following a tax year of its  
8 replacement tax obligation to the county treasurer. On or  
9 before September 30, 1999, and on or before September 30 of  
10 each subsequent year, the taxpayer shall remit to the county  
11 treasurer of each county to which such replacement tax is  
12 allocated pursuant to section 437A.15, one-half of the  
13 replacement tax so allocated, and on or before the succeeding  
14 March 31, the taxpayer shall remit to the county treasurers  
15 the remaining replacement tax so allocated. If notification  
16 of a taxpayer's replacement tax obligation is not mailed by a  
17 county treasurer on or before August 31 following a tax year,  
18 such taxpayer shall have thirty days from the date the  
19 notification is mailed to remit one-half of the replacement  
20 tax otherwise required by this subsection to be remitted to  
21 such county treasurer on or before September 30. If a  
22 taxpayer fails to timely remit replacement taxes as provided  
23 in this subsection, the county treasurer of each affected  
24 county shall notify the director of such failure.

25 5. At the time of filing the return required by subsection  
26 2, the taxpayer shall calculate the municipal transfer  
27 replacement tax due for the tax year. Municipal transfer  
28 replacement taxes shall be paid to the chief financial officer  
29 of the city to which the taxes are allocated at such time and  
30 place as directed by the city council.

31 6. Notwithstanding subsections 1 through 5, a taxpayer  
32 shall not be required to file a return otherwise required by  
33 this section or remit any replacement tax for any tax year in  
34 which the taxpayer's replacement tax liability before credits  
35 is three hundred dollars or less.



1 7. Following the determination of electric and natural gas  
2 delivery tax rates by the director pursuant to section 437A.4,  
3 subsection 3, and section 437A.5, subsection 3, if an  
4 adjustment resulting from a taxpayer appeal is made to taxes  
5 levied and paid by a taxpayer with respect to any of the  
6 assessment years 1992 through 1996 used in determining such  
7 rates, the director shall recalculate the delivery tax rate  
8 for any affected electric or natural gas competitive service  
9 area to reflect the impact of such adjustment as if such  
10 adjustment had been reflected in the initial determination of  
11 average centrally assessed property tax liability allocated to  
12 electric or natural gas service pursuant to section 437A.4,  
13 subsection 3, paragraph "a", and section 437A.5, subsection 3,  
14 paragraph "a". Rate recalculations shall be made and  
15 published in the Iowa administrative bulletin by the director  
16 on or before March 31 following the calendar year in which a  
17 final determination of the adjustment is made. Taxpayers  
18 shall report to the director any increase or decrease in the  
19 tentative replacement tax required to be shown to be due  
20 pursuant to subsection 1, paragraph "e", for any tax year with  
21 the return for the year in which the recalculated tax rates  
22 which gave rise to the adjustment are published in the Iowa  
23 administrative bulletin. The director and the department of  
24 management shall redetermine the allocation of replacement  
25 taxes pursuant to section 437A.15 for each affected tax year.  
26 If a taxpayer has overpaid replacement taxes, the overpayment  
27 shall be reported by the director to such taxpayer and to the  
28 appropriate county treasurers and shall be a credit against  
29 the replacement taxes owed by such taxpayer for the year in  
30 which the recalculated rates which gave rise to the  
31 overpayment are published in the Iowa administrative bulletin.  
32 If a taxpayer has overpaid centrally assessed property taxes  
33 for assessment years prior to tax year 1998, such overpayment  
34 shall be a credit against replacement taxes owed by such  
35 taxpayer for the year in which the overpayment is determined.

1 Unused credits may be carried forward and used to reduce  
2 future replacement tax liabilities until exhausted.

3 Sec. 10. NEW SECTION. 437A.9 FAILURE TO FILE RETURN --  
4 INCORRECT RETURN.

5 1. As soon as practicable after a return required by  
6 section 437A.8, subsection 1, is filed, and in any event  
7 within three years after such return is filed, the director  
8 shall examine the return, determine the tax due if the return  
9 is found to be incorrect, and give notice to the taxpayer of  
10 the determination as provided in subsection 2. The period for  
11 the examination and determination of the correct amount of tax  
12 is unlimited in the case of a false or fraudulent return made  
13 with the intent to evade any tax or in the case of a failure  
14 to file a return. The chief financial officer of a city shall  
15 have the same authority as is granted to the director under  
16 this section with respect to a return filed pursuant to  
17 section 437A.8, subsection 2.

18 2. If a return required by section 437.8, subsection 1, is  
19 not filed, or if such return when filed is incorrect or  
20 insufficient and the taxpayer fails to file a corrected or  
21 sufficient return within twenty days after such return is  
22 required by notice from the director, the director shall  
23 determine the amount of tax due from information as the  
24 director may be able to obtain and, if necessary, may estimate  
25 the tax due on the basis of external indices. The director  
26 shall give notice of the determination to the taxpayer liable  
27 for the tax and to the county treasurers to whom the tax is  
28 owed. The determination shall fix the tax unless the taxpayer  
29 against whom it is levied, within sixty days after notice of  
30 the determination, applies to the director for a hearing. At  
31 the hearing evidence may be offered to support the  
32 determination or to prove that it is incorrect. After the  
33 hearing the director shall give notice of the decision to the  
34 person liable for the tax and to the county treasurers to whom  
35 the tax is owed.

1 3. The three-year period of limitation provided in  
2 subsection 1 may be extended by the taxpayer by signing a  
3 waiver agreement form provided by the department. The  
4 agreement shall stipulate the period of extension and the tax  
5 period to which the extension applies. The agreement shall  
6 also provide that a claim for refund may be filed by the  
7 taxpayer at any time during the period of extension.

8 Sec. 11. NEW SECTION. 437A.10 JUDICIAL REVIEW.

9 1. Judicial review of the actions of the director may be  
10 sought pursuant to chapter 17A, the Iowa administrative  
11 procedure Act.

12 2. For cause and upon a showing by the director that  
13 collection of the tax in dispute is in doubt, the court may  
14 order the petitioner to file with the clerk of the district  
15 court a bond for the use of the appropriate local taxing  
16 districts, with sureties approved by the clerk of the district  
17 court, in the amount of the tax appealed from, conditioned  
18 upon the performance by the petitioner of any orders of the  
19 court.

20 3. An appeal may be taken by the taxpayer or the director  
21 to the supreme court irrespective of the amount involved.

22 4. A person aggrieved by a decision of the chief financial  
23 officer of a city under this chapter may seek review by writ  
24 of certiorari within thirty days of the decision sought to be  
25 reviewed.

26 Sec. 12. NEW SECTION. 437A.11 LIEN -- ACTIONS  
27 AUTHORIZED.

28 Whenever a taxpayer who is liable to pay a tax imposed by  
29 subchapter 2 refuses or neglects to pay such tax, the amount,  
30 including any interest, penalty, or addition to such tax,  
31 together with the costs that may accrue, shall be a lien in  
32 favor of the chief financial officer of the city or the county  
33 treasurer to which the tax is owed upon all property and  
34 rights to property, whether real or personal, belonging to the  
35 taxpayer. The lien shall be prior to and superior over all

1 subsequent liens upon any personal property within this state,  
2 or right to such personal property, belonging to the taxpayer,  
3 without the necessity of recording the lien. The requirement  
4 for recording, as applied to the tax imposed by subchapter 2,  
5 shall apply only to a lien upon real property. The lien may  
6 be preserved against subsequent mortgagees, purchasers, or  
7 judgment creditors, for value and without notice of the lien,  
8 on any real property situated in a county, by the county  
9 treasurer to which replacement tax is owed by filing with the  
10 recorder of the county in which the real property is located a  
11 notice of the lien. For purposes of the replacement tax  
12 collected by a city, the lien may be preserved against  
13 subsequent mortgagees, purchasers, or judgment creditors, for  
14 value and without notice of the lien, on any real property  
15 situated in the county, by the chief financial officer of the  
16 city to which replacement tax is owed by filing with the  
17 recorder of the county in which the real property is located a  
18 notice of the lien.

19 The county recorder of each county shall prepare and keep  
20 in the recorder's office a book to be known as the index of  
21 replacement tax liens, so ruled as to show in appropriate  
22 columns under the names of taxpayers arranged alphabetically,  
23 all of the following:

- 24 1. The name of the taxpayer.
- 25 2. The name of the county treasurer and county or the name  
26 of the chief financial officer and city as claimant.
- 27 3. Time the notice of lien was received.
- 28 4. Date of notice.
- 29 5. Amount of lien then due.
- 30 6. Date of assessment.
- 31 7. Date when the lien is satisfied.

32 The recorder shall endorse on each notice of lien the day,  
33 hour, and minute when received and preserve such notice, and  
34 shall promptly record the lien in the manner provided for  
35 recording real estate mortgages. The lien is effective from

1 the time of the indexing of the lien.

2 The county treasurer or chief financial officer of the city  
3 shall pay a recording fee as provided in section 331.604, for  
4 the recording of the lien, or for its satisfaction.

5 Upon the payment of the replacement tax as to which a  
6 county treasurer or chief financial officer of a city has  
7 filed notice with a county recorder, the county treasurer or  
8 chief financial officer of the city shall promptly file with  
9 the recorder a satisfaction of the replacement tax. The  
10 recorder shall enter the satisfaction on the notice on file in  
11 the recorder's office and indicate that fact on the index.

12 Section 445.3 applies with respect to the replacement taxes  
13 and penalties imposed by this chapter, except for the  
14 provisions limiting the commencement of actions.

15 Sec. 13. NEW SECTION. 437A.12 SERVICE OF NOTICE.

16 1. A notice authorized or required under this chapter may  
17 be given by mailing the notice to the taxpayer, addressed to  
18 the taxpayer at the address given in the last return filed by  
19 the taxpayer pursuant to this chapter, or if no return has  
20 been filed, then to the most recent address of the taxpayer  
21 obtainable. The mailing of the notice is presumptive evidence  
22 of the receipt of the notice by the taxpayer to whom the  
23 notice is addressed. A period of time within which some  
24 action must be taken for which notice is provided under this  
25 section commences to run from the date of mailing of the  
26 notice.

27 2. There is no limitation for the enforcement of a civil  
28 remedy pursuant to any proceeding or action taken to levy,  
29 appraise, assess, determine, or enforce the collection of any  
30 tax or penalty due under this chapter.

31 Sec. 14. NEW SECTION. 437A.13 PENALTIES -- OFFENSES --  
32 LIMITATION.

33 1. A taxpayer is subject to the penalty provisions in  
34 section 421.27 with respect to any replacement tax due under  
35 this chapter. A taxpayer shall also pay interest on the

1 delinquent replacement tax at the rate in effect under section  
2 421.7 for each month computed from the date the payment was  
3 due, counting each fraction of a month as an entire month.  
4 The penalty and interest shall be paid to the county  
5 treasurer, or in the case of penalty and interest associated  
6 with a municipal transfer replacement tax to the city  
7 financial officer, and shall be disposed of in the same manner  
8 as other receipts under this chapter. Unpaid penalties and  
9 interest may be enforced in the same manner as provided for  
10 unpaid replacement tax under this chapter.

11 2. A taxpayer, or officer, member, or employee of the  
12 taxpayer, who willfully attempts to evade the replacement tax  
13 imposed or the payment of the replacement tax is guilty of a  
14 class "D" felony.

15 3. The issuance of a certificate by the director or a  
16 county treasurer stating that a replacement tax has not been  
17 paid, that a return has not been filed, or that information  
18 has not been supplied pursuant to this chapter is prima facie  
19 evidence of such failure.

20 4. A taxpayer, or officer, member, or employee of the  
21 taxpayer, required to pay a replacement tax, or required to  
22 make, sign, or file an annual return or supplemental return,  
23 who willfully makes a false or fraudulent annual return, or  
24 who willfully fails to pay at least ninety percent of the  
25 replacement tax or willfully fails to make, sign, or file the  
26 annual return, as required, is guilty of a fraudulent  
27 practice.

28 5. For purposes of determining the place of trial for a  
29 violation of this section, the situs of an offense is in the  
30 county of the residence of the taxpayer, officer, member, or  
31 employee of the taxpayer charged with the offense, unless the  
32 taxpayer, officer, member, or employee of the taxpayer is a  
33 nonresident of this state or the residence cannot be  
34 established, in which event the situs of the offense is in  
35 Polk county.

1 6. Prosecution for an offense specified in this section  
2 shall be commenced within six years after the commission of  
3 the offense.

4 Sec. 15. NEW SECTION. 437A.14 CORRECTION OF ERRORS --  
5 REFUNDS OR CREDITS OF REPLACEMENT TAX PAID -- INFORMATION  
6 CONFIDENTIAL -- PENALTY.

7 1. a. If an amount of replacement tax, penalty, or  
8 interest has been paid which was not due under this chapter, a  
9 city's chief financial officer or county treasurer to whom  
10 such erroneous payment was made shall do one of the following:

11 (1) Credit the amount of the erroneous payment against any  
12 replacement tax due, or to become due, from the taxpayer on  
13 the books of the city or county.

14 (2) Refund the amount of the erroneous payment to the  
15 taxpayer.

16 b. Claims for refund or credit of replacement taxes paid  
17 shall be filed with the director. A claim for refund or  
18 credit that is not filed with the director within three years  
19 after the replacement tax payment upon which a refund or  
20 credit is claimed became due, or one year after the  
21 replacement tax payment was made, whichever time is later,  
22 shall not be allowed. A claim for refund or credit of tax  
23 alleged to be unconstitutional not filed with the director  
24 within ninety days after the replacement tax payment upon  
25 which a refund or credit is claimed became due shall not be  
26 allowed. As a precondition for claiming a refund or credit of  
27 alleged unconstitutional taxes, such taxes must be paid under  
28 written protest which specifies the particulars of the alleged  
29 unconstitutionality. Claims for refund or credit may only be  
30 made by, and refunds or credits may only be made to, the  
31 person responsible for paying the replacement tax, or such  
32 person's successors. The director shall notify affected  
33 county treasurers of the acceptance or denial of any refund  
34 claim. Section 421.10 applies to claims denied by the  
35 director.

1        2. It is unlawful for any present or former officer or  
2 employee of the state to divulge or to make known in any  
3 manner to any person the kilowatt-hours of electricity or  
4 therms of natural gas delivered by a taxpayer in a competitive  
5 service area disclosed on a tax return, return information, or  
6 investigative or audit information. A person who violates  
7 this section is guilty of a serious misdemeanor. If the  
8 offender is an officer or employee of the state, such person,  
9 in addition to any other penalty, shall also be dismissed from  
10 office or discharged from employment. This section does not  
11 prohibit turning over to duly authorized officers of the  
12 United States or tax officials of other states such kilowatt-  
13 hours or therms pursuant to agreement between the director and  
14 the secretary of the treasury of the United States or the  
15 secretary's delegate or pursuant to a reciprocal agreement  
16 with another state.

17        3. Unless otherwise expressly permitted by a section  
18 referencing this chapter, the kilowatt-hours of electricity or  
19 therms of natural gas delivered by a taxpayer in a competitive  
20 service area shall not be divulged to any person or entity,  
21 other than the taxpayer, the department, or the internal  
22 revenue service for use in a matter unrelated to tax  
23 administration.

24        This prohibition precludes persons or entities other than  
25 the taxpayer, the department, or the internal revenue service  
26 from obtaining such information from the department. A  
27 subpoena, order, or process which requires the department to  
28 produce such information to a person or entity, other than the  
29 taxpayer, the department, or internal revenue service, for use  
30 in a nontax proceeding is void.

31        4. Notwithstanding subsections 2 and 3, the chief  
32 financial officer of any local taxing district and any  
33 designee of such officer shall have access to any computations  
34 made by the director pursuant to the provisions of this  
35 chapter, and any tax return or other information used by the



1 director in making such computations, which affect the  
2 replacement tax owed by any such taxpayer.

3 Notwithstanding this section, providing information  
4 relating to the kilowatt-hours of electricity or therms of  
5 natural gas delivered by a taxpayer in a competitive service  
6 area to the task force established in section 437A.15,  
7 subsection 7, or to the study committee established in section  
8 476.6, subsection 23, is not a violation of this section.

9 5. Local taxing district employees are deemed to be  
10 officers and employees of the state for purposes of subsection  
11 2.

12 6. Claims for refund or credit of municipal transfer  
13 replacement tax shall be filed with the appropriate city's  
14 chief financial officer. Subsection 1 applies with respect to  
15 the transfer replacement tax and the city's chief financial  
16 officer shall have the same authority as is granted to the  
17 director under this section with respect to a return filed  
18 pursuant to section 437A.8, subsection 2.

19 7. Claims for refund or credit of special utility property  
20 tax levies shall be filed with the appropriate county  
21 treasurer. Subsection 1 applies with respect to the special  
22 utility property tax levy and the county treasurer shall have  
23 the same authority as is granted to the director under this  
24 section.

25 Sec. 16. NEW SECTION. 437A.15 ALLOCATION OF REVENUE.

26 1. The director and the department of management shall  
27 compute the allocation of all replacement tax revenues other  
28 than transfer replacement tax revenues among the local taxing  
29 districts in accordance with this section and shall report  
30 such allocation by local taxing districts to the county  
31 treasurers on or before August 15 following a tax year.

32 2. The director shall determine and report to the  
33 department of management the total replacement taxes to be  
34 collected from each taxpayer for the tax year on or before  
35 July 30 following such tax year.

1 3. All replacement taxes owed by a taxpayer shall be  
2 allocated among the local taxing districts in which such  
3 taxpayer's property is located in accordance with a general  
4 allocation formula determined by the department of management  
5 on the basis of general property tax equivalents. General  
6 property tax equivalents shall be determined by applying the  
7 levy rates reported by each local taxing district to the  
8 department of management on or before June 30 following a tax  
9 year to the assessed value of taxpayer property allocated to  
10 each such local taxing district as adjusted and reported to  
11 the department of management in such tax year by the director  
12 pursuant to section 437A.19, subsection 2. The general  
13 allocation formula for a tax year shall allocate to each local  
14 taxing district that portion of the replacement taxes owed by  
15 each taxpayer which bears the same ratio as such taxpayer's  
16 general property tax equivalents for each local taxing  
17 district bears to such taxpayer's total general property tax  
18 equivalents for all local taxing districts in Iowa.

19 4. On or before August 31 following tax years 1998, 1999,  
20 and 2000, each county treasurer shall compute a special  
21 utility property tax levy or tax credit for each taxpayer for  
22 which a replacement tax liability for each such tax year is  
23 reported to the county treasurer pursuant to subsection 1, and  
24 shall notify the taxpayer of the amount of such tax levy or  
25 tax credit. The amount of the special utility property tax  
26 levy or credit shall be determined for each taxpayer by the  
27 county treasurer by comparing the taxpayer's total replacement  
28 tax liability allocated to taxing districts in the county  
29 pursuant to this section with the anticipated tax revenues  
30 from the taxpayer for all taxing districts in the county. If  
31 the taxpayer's total replacement tax liability allocated to  
32 taxing districts in the county is less than the anticipated  
33 tax revenues from the taxpayer for all taxing districts in the  
34 county, the county treasurer shall levy a special utility  
35 property tax equal to the shortfall which shall be added to

1 and collected with the replacement tax owed by the taxpayer to  
2 the county treasurer for the tax year pursuant to section  
3 437A.8, subsection 4. If the taxpayer's total replacement tax  
4 liability allocated to taxing districts in the county exceeds  
5 the anticipated tax revenues from the taxpayer for all taxing  
6 districts in the county, the county treasurer shall issue a  
7 credit to the taxpayer which shall be applied to reduce the  
8 taxpayer's replacement tax liability to the county treasurer  
9 for the tax year. If the taxpayer's total replacement tax  
10 liability allocated to taxing districts in the county equals  
11 the anticipated tax revenues from the taxpayer for all taxing  
12 districts in the county, no levy or credit is required.

13 Replacement tax liability for purposes of this subsection  
14 means replacement tax liability before credits allowed by  
15 section 437A.8, subsection 7. A recalculation of a special  
16 utility property tax levy or credit shall not be made as a  
17 result of a subsequent recalculation of replacement tax  
18 liability under section 437A.8, subsection 7, or adjustment to  
19 assessed value under section 437A.19, subsection 2, paragraph  
20 "f". "Anticipated tax revenues from a taxpayer" means the  
21 product of the total levy rates imposed by the taxing  
22 districts and the value of taxpayer property allocated to the  
23 taxing districts and reported to the county auditor. Special  
24 utility property tax levies and credits shall be treated as  
25 replacement taxes for purposes of section 437A.11.

26 5. The replacement tax, as adjusted by any special utility  
27 property tax levy or credit and remitted to a county treasurer  
28 by each taxpayer, shall be treated as a property tax when  
29 received and shall be disposed of by the county treasurer as  
30 taxes on real estate. Notwithstanding the allocation  
31 provisions of this section, nothing in this section shall deny  
32 any affected taxing entity, as defined in section 403.17,  
33 subsection 1, which has enacted an ordinance or entered into  
34 an agreement for the division and allocation of taxes  
35 authorized under section 403.19 and under which ordinance or

1 agreement the taxes collected in respect of properties owned  
2 by any of the taxpayers remitting replacement taxes pursuant  
3 to the provisions of this chapter are being divided and  
4 allocated, the right to receive its share of the replacement  
5 tax revenues collected for any year which would otherwise be  
6 paid to such affected taxing entity under the terms of any  
7 such ordinance or agreement had this chapter not been enacted.  
8 To the extent that adjustment must be made to the allocation  
9 described in this section to give effect to the terms of such  
10 ordinances or agreements, the department of management and the  
11 county treasurer shall make such adjustments.

12 6. In lieu of the adjustment provided for in subsection 5,  
13 the assessed value of property described in section 403.19,  
14 subsection 1, may be reduced by the city or county by the  
15 amount of the taxable value of the property described in  
16 section 437A.16 included in such area on January 1, 1996,  
17 pursuant to amendment of the ordinance adopted by such city or  
18 county pursuant to section 403.19.

19 7. On or before July 1, 1998, the department of  
20 management, in consultation with the department of revenue and  
21 finance, shall initiate and coordinate the establishment of a  
22 task force and provide staffing assistance to the task force.  
23 It is the intent of the general assembly that the task force  
24 include representatives of the department of management,  
25 department of revenue and finance, electric companies, natural  
26 gas companies, municipal utilities, electric cooperatives,  
27 counties, cities, school boards, and industrial, commercial,  
28 and residential consumers, and other appropriate stakeholders.

29 The task force shall study the effects of the replacement  
30 tax on local taxing districts, consumers, and taxpayers and  
31 the department of management shall report to the general  
32 assembly by January 1 of each year through January 1, 2002,  
33 the results of the study and the specific recommendations of  
34 the task force for modifications to the replacement tax, if  
35 any, which will further the purposes of tax neutrality for

1 local taxing districts, taxpayers, and consumers, consistent  
2 with the stated purposes of this chapter. The department of  
3 management shall also report to the legislative council by  
4 November 15 of each year through 2001, the status of the task  
5 force study and any recommendations.

6 Sec. 17. NEW SECTION. 437A.16 ASSESSMENT EXCLUSIVE.

7 All operating property and all other property that is  
8 primarily and directly used in the production, generation,  
9 transmission, or delivery of electricity or natural gas owned  
10 by or leased to a person subject to taxation under this  
11 chapter is exempt from taxation except as otherwise provided  
12 by this chapter. This exemption shall not extend to taxes  
13 imposed under chapters 437, 438, and 468, taxpayers described  
14 in section 437A.8, subsection 6, or facilities or property  
15 described in section 437A.6, subsection 1, paragraphs "a"  
16 through "f", and section 437A.7, subsection 2.

17 Sec. 18. NEW SECTION. 437A.17 STATUTES APPLICABLE --  
18 RATE CALCULATIONS.

19 1. The director shall administer and enforce the  
20 replacement tax imposed by this chapter in the same manner as  
21 provided in and subject to sections 422.68, 422.70, 422.71,  
22 and 422.75.

23 2. The calculation of tax rates and adjustments to such  
24 rates by the director pursuant to this chapter do not  
25 constitute rulemaking subject to the provisions of chapter  
26 17A.

27 SUBCHAPTER 3

28 STATEWIDE PROPERTY TAX

29 Sec. 19. NEW SECTION. 437A.18 TAX IMPOSITION.

30 An annual statewide property tax of three cents per one  
31 thousand dollars of assessed value is imposed upon all  
32 property described in section 437A.16 on the assessment date  
33 of January 1.

34 Sec. 20. NEW SECTION. 437A.19 ADJUSTMENT TO ASSESSED  
35 VALUE -- REPORTING REQUIREMENTS.

1 1. a. A taxpayer whose property is subject to the  
2 statewide property tax shall report to the director by July 1,  
3 1998, and by May 1 of each subsequent tax year, on forms  
4 prescribed by the director, the book value, as of the  
5 beginning and end of the preceding calendar year, of all of  
6 the following:

7 (1) The local amount of any major addition by local taxing  
8 district.

9 (2) The statewide amount of any major addition without  
10 notation of location.

11 (3) Any building in Iowa at acquisition cost of more than  
12 ten million dollars which was originally placed in service by  
13 the taxpayer prior to January 1, 1997, and which was  
14 transferred or disposed of in the preceding calendar year,  
15 without notation of location.

16 (4) Any electric power generating plant in Iowa at  
17 acquisition cost of more than ten million dollars which was  
18 originally placed in service by the taxpayer prior to January  
19 1, 1997, and which was transferred or disposed of in the  
20 preceding calendar year, without notation of location.

21 (5) All other taxpayer property without notation of  
22 location.

23 (6) The local amount of any major addition eligible for  
24 the urban revitalization exemption provided for in chapter  
25 404, by situs.

26 b. For purposes of this section:

27 (1) "Book value" means acquisition cost less accumulated  
28 depreciation determined under generally accepted accounting  
29 principles.

30 (2) "Taxpayer property" means property described in  
31 section 437A.16.

32 (3) "To dispose of" means to sell, abandon, decommission,  
33 or retire an asset.

34 (4) "Transfer" means a transaction which results in a  
35 change of ownership of taxpayer property and includes a

1 capital lease transaction.

2 c. For purposes of this subsection, "taxpayer" includes a  
3 person who would have been a taxpayer in calendar year 1997  
4 had the provisions of this chapter been in effect for the 1997  
5 assessment year.

6 d. If a taxpayer owns or leases pursuant to a capital  
7 lease less than the entire interest in a major addition, the  
8 local amount and statewide amount, if any, of such major  
9 addition shall be apportioned to the taxpayer on the basis of  
10 its percentage interest in such major addition.

11 2. Beginning January 1, 1998, the assessed value of  
12 taxpayer property shall be adjusted annually as provided in  
13 this section. The director, with respect to each taxpayer,  
14 shall do all of the following:

15 a. Adjust the assessed value of taxpayer property in each  
16 local taxing district by the change in book value during the  
17 preceding calendar year of the local amount of any major  
18 addition reported within such local taxing district.

19 b. (1) Adjust the assessed value of taxpayer property in  
20 each local taxing district by allocating the change in book  
21 value during the preceding calendar year of the statewide  
22 amount and all other taxpayer property described in subsection  
23 1, paragraph "a", subparagraph (5), to the assessed value of  
24 all taxpayer property in the state pro rata according to its  
25 preadjustment value.

26 (2) If, during the preceding calendar year, a taxpayer  
27 transferred an electric power generating plant to a taxpayer  
28 who owned no other taxpayer property in this state as of the  
29 end of such preceding calendar year, in lieu of the adjustment  
30 provided in subparagraph (1), the director shall allocate the  
31 transferee taxpayer's change in book value of the statewide  
32 amount during such preceding calendar year, if any, among  
33 local taxing districts in proportion to the allocation of the  
34 transferor's assessed value among local taxing districts as of  
35 the end of such preceding calendar year.

1 c. In the case of taxpayer property described in  
2 subsection 1, paragraph "a", subparagraphs (3) and (4),  
3 decrease the assessed value of taxpayer property in each local  
4 taxing district by the taxable value of such property within  
5 each such local taxing district on January 1, 1997.

6 d. In the event of a merger or consolidation of two or  
7 more taxpayers, to determine the assessed value of the  
8 surviving taxpayer, combine the assessed values of such  
9 taxpayers immediately prior to the merger or consolidation.

10 e. In the event any taxpayer property is eligible for the  
11 urban revitalization tax exemption described in chapter 404,  
12 adjust the assessed value of taxpayer property within each  
13 affected local taxing district to reflect such exemption.

14 f. In the event the base year assessed value of taxpayer  
15 property is adjusted as a result of taxpayer appeals, reduce  
16 the assessed value of taxpayer property in each local taxing  
17 district to reflect such adjustment. The adjustment shall be  
18 allocated in proportion to the allocation of the taxpayer's  
19 assessed value among the local taxing districts determined  
20 without regard to this adjustment. If an adjustment to the  
21 base year assessed value of taxpayer property is finally  
22 determined on or before September 30, 1998, it shall be  
23 reflected in the January 1, 1998, assessed value. Otherwise,  
24 any such adjustment shall be made as of January 1 of the year  
25 following the date on which the adjustment is finally  
26 determined.

27 In no event shall the adjustments set forth in this  
28 subsection reduce the assessed value of taxpayer property in  
29 any local taxing district below zero.

30 The director, on or before October 31, 1998, in the case of  
31 January 1, 1998, assessed values, and on or before August 31  
32 of each subsequent assessment year, shall report to the  
33 department of management and to the auditor of each county the  
34 adjusted assessed value of taxpayer property as of January 1  
35 of such assessment year for each local taxing district. For



1 purposes of this subsection, the assessed value of taxpayer  
2 property in each local taxing district subject to adjustment  
3 under this section by the director means the assessed value of  
4 such property as of the preceding January 1 as determined and  
5 allocated among the local taxing districts by the director.

6 Nothing in this chapter shall be interpreted to authorize  
7 local taxing districts to exclude from the calculation of levy  
8 rates the adjusted assessed value of taxpayer property  
9 reported to county auditors pursuant to this subsection.

10 Sec. 21. NEW SECTION. 437A.20 TAX EXEMPTIONS.

11 Except as provided in section 437A.16, all property tax  
12 exemptions in the Code do not apply to property subject to the  
13 statewide property tax unless such exemptions expressly refer  
14 to the statewide property tax, except that if property was  
15 exempt from property tax on January 1, 1998, such exemption  
16 shall continue until the exemption expires, is phased out, or  
17 is repealed. The property of a taxpayer who does not owe any  
18 replacement tax is exempt from the statewide property tax for  
19 the coinciding assessment year.

20 Sec. 22. NEW SECTION. 437A.21 RETURN AND PAYMENT  
21 REQUIREMENTS.

22 1. Each electric company, natural gas company, electric  
23 cooperative, municipal utility, and other person whose  
24 property is subject to the statewide property tax shall file  
25 with the director a return, on or before February 28 following  
26 the assessment year, including, but not limited to, the  
27 following information:

28 a. The assessed value of property subject to the statewide  
29 property tax.

30 b. The amount of statewide property tax computed on such  
31 assessed value.

32 2. The first return under subsection 1 is due on or before  
33 February 28, 1999.

34 3. If an electric company, natural gas company, electric  
35 cooperative, municipal utility, or person is not required to

1 file a statewide property tax return on or before February 28,  
2 1999, but is required to file a return after such date, the  
3 return shall be filed on or before the due date. This  
4 subsection also applies in the event of a consolidation.

5 4. A return shall be signed by an officer, or other person  
6 duly authorized by the taxpayer, and must be certified as  
7 correct and in accordance with rules and forms prescribed by  
8 the director.

9 5. At the time of filing the return with the director, the  
10 taxpayer shall calculate the statewide property tax owed for  
11 the assessment year and shall remit to the director the  
12 statewide property tax required to be shown to be due on the  
13 return.

14 Sec. 23. NEW SECTION. 437A.22 STATUTES APPLICABLE.

15 Sections 437A.9, 437A.10, 437A.12, 437A.13, and 437A.14,  
16 subsection 1, are applicable to electric companies, natural  
17 gas companies, electric cooperatives, municipal utilities, and  
18 persons whose property is subject to the statewide property  
19 tax. However, a required credit or refund of overpaid  
20 statewide property tax pursuant to section 437A.14, subsection  
21 1, as it applies to this subchapter, shall be made by the  
22 director and not by city chief financial officers or county  
23 treasurers.

24 Section 422.26 applies with respect to the statewide  
25 property tax and penalties imposed by this chapter, except  
26 that, as applied to any tax imposed by this chapter, the lien  
27 provided shall be prior to and superior over all subsequent  
28 liens upon any personal property within this state or right to  
29 such personal property belonging to the taxpayer, without the  
30 necessity of recording the lien as provided in section 422.26.  
31 The requirement for recording, as applied to the statewide  
32 property tax imposed by this chapter, shall apply only to a  
33 lien upon real property. In order to preserve such lien  
34 against subsequent mortgagees, purchasers, or judgment  
35 creditors, for value and without notice of the lien, on any

1 real property situated in a county, the director shall file  
2 with the recorder of the county in which the real property is  
3 located a notice of the lien.

4 The county recorder of each county shall prepare and keep  
5 in the recorder's office a book to be known as the index of  
6 statewide property tax liens, so ruled as to show in  
7 appropriate columns under the names of taxpayers arranged  
8 alphabetically, all of the following:

- 9 1. The name of the taxpayer.
- 10 2. The name "State of Iowa" as claimant.
- 11 3. Time the notice of lien was received.
- 12 4. Date of notice.
- 13 5. Amount of lien then due.
- 14 6. Date of assessment.
- 15 7. Date when the lien is satisfied.

16 The recorder shall endorse on each notice of lien the day,  
17 hour, and minute when received and preserve such notice, and  
18 shall promptly record the lien in the manner provided for  
19 recording real estate mortgages. The lien is effective from  
20 the time of the indexing of the lien.

21 The director, from moneys appropriated to the department of  
22 revenue and finance for this purpose, shall pay a recording  
23 fee as provided in section 331.604 for the recording of the  
24 lien, or for its satisfaction.

25 Upon the payment of the replacement tax as to which the  
26 director has filed notice with a county recorder, the director  
27 shall promptly file with the recorder a satisfaction of the  
28 replacement tax. The recorder shall enter the satisfaction on  
29 the notice on file in the recorder's office and indicate that  
30 fact on the index.

31 Sec. 24. NEW SECTION. 437A.23 DEPOSIT OF TAX PROCEEDS.

32 All revenues received from imposition of the statewide  
33 property tax shall be deposited in the general fund of the  
34 state. Fifty percent of the revenues shall be available to  
35 the department of management for salaries, support, services,

1 and equipment to administer the replacement tax. The balance  
2 of the revenues shall be available to the department of  
3 revenue and finance for salaries, support, services, and  
4 equipment to administer and enforce the replacement tax and  
5 the statewide property tax.

6 SUBCHAPTER 4

7 GENERAL PROVISIONS

8 Sec. 25. NEW SECTION. 437A.24 RECORDS.

9 Each electric company, natural gas company, electric  
10 cooperative, municipal utility, and other person who is  
11 subject to the replacement tax or the statewide property tax  
12 shall maintain records associated with the replacement tax and  
13 the assessed value of property subject to the statewide  
14 property tax for a period of ten years following the later of  
15 the original due date for filing a return pursuant to sections  
16 437A.8 and 437A.21 in which such taxes are reported, or the  
17 date on which either such return is filed. Such records shall  
18 include those associated with any additions or dispositions of  
19 property, and the allocation of such property among local  
20 taxing districts.

21 Sec. 26. NEW SECTION. 437A.25 RULES.

22 The director of revenue and finance may adopt rules  
23 pursuant to chapter 17A for the administration and enforcement  
24 of this chapter.

25 Sec. 27. Section 257.3, subsection 1, Code 1997, is  
26 amended by adding the following unnumbered paragraph:

27 NEW UNNUMBERED PARAGRAPH. Replacement taxes under chapter  
28 437A shall be regarded as property taxes for purposes of this  
29 chapter.

30 Sec. 28. Section 427.1, subsection 2, Code Supplement  
31 1997, is amended to read as follows:

32 2. MUNICIPAL AND MILITARY PROPERTY. The property of a  
33 county, township, city, school corporation, levee district,  
34 drainage district or military company of the state of Iowa,  
35 when devoted to public use and not held for pecuniary profit,

1 except property of a municipally owned electric utility held  
2 under joint ownership and property of an electric power  
3 facility financed under chapter 28F which shall be subject to  
4 ~~assessment-and~~ taxation under ~~provisions-of-chapters-428-and~~  
5 437 chapter 437A. The exemption for property owned by a city  
6 or county also applies to property which is operated by a city  
7 or county as a library, art gallery or museum, conservatory,  
8 botanical garden or display, observatory or science museum, or  
9 as a location for holding athletic contests, sports or  
10 entertainment events, expositions, meetings or conventions, or  
11 leased from the city or county for any such purposes. Food  
12 and beverages may be served at the events or locations without  
13 affecting the exemptions, provided the city has approved the  
14 serving of food and beverages on the property if the property  
15 is owned by the city or the county has approved the serving of  
16 food and beverages on the property if the property is owned by  
17 the county.

18 Sec. 29. Section 428.24, Code 1997, is amended to read as  
19 follows:

20 428.24 PUBLIC UTILITY PLANTS.

21 The lands, buildings, machinery, and mains belonging to  
22 individuals or corporations operating waterworks or gasworks  
23 or pipelines, ~~the lands, buildings, machinery, tracks, poles,~~  
24 ~~and wires belonging to individuals, corporations or electric~~  
25 ~~power agencies furnishing electric light or power, and the~~  
26 ~~lands, buildings, machinery, poles, wires, overhead~~  
27 ~~construction, tracks, cables, conduits, and fixtures belonging~~  
28 ~~to individuals or corporations operating railways by cable or~~  
29 ~~electricity, or operating elevated street railways, except~~  
30 those natural gas pipelines permitted pursuant to chapter 479,  
31 shall be listed and assessed by the department of revenue and  
32 finance. In the making of assessments of waterworks plants,  
33 the value of any interest in the property assessed, of the  
34 municipal corporation where it is situated, shall be deducted,  
35 whether the interest is evidenced by stock, bonds, contracts,

1 or otherwise.

2 Sec. 30. Section 428.26, Code 1997, is amended to read as  
3 follows:

4 428.26 PERSONAL PROPERTY.

5 All the personal property of such individuals and  
6 corporations used or purchased by them for the purposes of  
7 such gas or waterworks, ~~electric-light-plants, electric-or~~  
8 ~~cable-railways, elevated-street-railways-or-street-railways~~  
9 ~~operated-by-animal-power, including-the-reeling-stock-of-such~~  
10 ~~railways-and-street-railways, and-the-animals-belonging-to~~  
11 ~~such-street-railways-operated-by-animal-power, other than~~  
12 natural gas pipelines permitted pursuant to chapter 479, shall  
13 be listed and assessed by the department of revenue and  
14 finance. In the making of any such assessment of waterworks  
15 plants, the value of any interest in the property so assessed,  
16 of the municipal corporation ~~wherein~~ in which the same  
17 waterworks is situated, shall be deducted, whether such  
18 interest be evidenced by stock, bonds, contracts, or  
19 otherwise.

20 Sec. 31. Section 428.28, Code 1997, is amended to read as  
21 follows:

22 428.28 ANNUAL REPORT BY UTILITY.

23 Every individual, copartnership, corporation, or  
24 association operating for profit, waterworks or gasworks or  
25 pipe lines, ~~electric-light-or-power-plant, railways-operated~~  
26 ~~by-electricity, elevated-street-railways, shall~~ other than  
27 natural gas pipelines permitted pursuant to chapter 479,  
28 annually on or before ~~the-first-day-of~~ May 1 of each calendar  
29 year, shall make a report on blanks to be provided by the  
30 department of revenue and finance of all of the property owned  
31 by such individual, copartnership, corporation, or association  
32 within the incorporated limits of any city in the state, and  
33 give such other information as the director of revenue and  
34 finance shall require.

35 Every individual, copartnership, corporation, or

1 association which operates a public utility on a nonprofit  
2 basis other than a utility subject to tax under chapter 437A,  
3 as defined in section 428.24 shall annually, on or before the  
4 ~~first-day-of~~ May 1 of each calendar year, make a report on  
5 blanks to be provided by the department of revenue and finance  
6 of all of the property owned by the individual, copartnership,  
7 corporation, or association within the incorporated limits of  
8 any city in the state, and give other information the director  
9 of revenue and finance requires.

10 Sec. 32. Section 437.1, Code 1997, is amended by striking  
11 the section and inserting in lieu thereof the following:

12 437.1 DEFINITIONS.

13 As used in this chapter, unless the context otherwise  
14 requires:

15 1. "Company" means an electric cooperative referred to in  
16 section 437A.7, subsection 2, paragraph "c".

17 2. "Electric cooperative" means an electric utility  
18 provider formed or organized as an electric cooperative under  
19 the laws of this state or elsewhere.

20 3. "Transmission lines" means electric lines and  
21 associated facilities operating at thirty-four thousand five  
22 hundred volts or higher voltage, and substations,  
23 transformers, and associated facilities operated at thirty-  
24 four thousand five hundred or more volts on the low voltage  
25 side.

26 Sec. 33. Section 437.3, Code 1997, is amended to read as  
27 follows:

28 437.3 VERIFICATION.

29 The verification of any statement required by law shall ~~in~~  
30 ~~the case of a person,~~ be made by ~~such person,~~ ~~in the case of a~~  
31 ~~corporation,~~ ~~by the president or secretary thereof,~~ ~~and in~~  
32 ~~case of a copartnership, association, or syndicate,~~ by some  
33 member, officer, or agent thereof of the company having  
34 knowledge of the facts.

35 Sec. 34. Section 438.1, Code 1997, is amended to read as

1 follows:

2 438.1 TAXATION PROCEDURE.

3 Every person, copartnership, association, corporation, or  
4 syndicate engaged in the business of transporting or  
5 transmitting gas, gasoline, oils, or motor fuels by means of  
6 pipelines other than natural gas pipelines permitted pursuant  
7 to chapter 479, whether such pipelines be owned or leased,  
8 shall be taxed as herein provided in this chapter.

9 Sec. 35. Section 438.2, Code 1997, is amended to read as  
10 follows:

11 438.2 DEFINITIONS DEFINITION.

12 ~~The words "pipeline~~ "Pipeline company", as used in this  
13 ~~chapter shall be deemed and construed to mean,~~ means any  
14 person, copartnership, association, corporation, or syndicate  
15 that may own or operate or be engaged in operating or  
16 utilizing pipelines, other than natural gas pipelines  
17 permitted pursuant to chapter 479, for the purposes described  
18 in section 438.1.

19 Sec. 36. Section 441.73, subsection 1, Code Supplement  
20 1997, is amended to read as follows:

21 1. A litigation expense fund is created in the state  
22 treasury. The litigation expense fund shall be used for the  
23 payment of litigation expenses incurred by the state to defend  
24 property valuations established by the director of revenue and  
25 finance pursuant to section 428.24 and chapters 430A, 433,  
26 434, 436, 437, 437A, and 438, and for the payment of  
27 litigation expenses incurred by the state to defend the  
28 imposition of replacement taxes and statewide property taxes  
29 under chapter 437A.

30 Sec. 37. Section 476.6, Code 1997, is amended by adding  
31 the following new subsections:

32 NEW SUBSECTION. 22. The costs of the replacement tax  
33 imposed pursuant to chapter 437A shall be reflected in the  
34 charges of utilities subject to rate regulation, in lieu of  
35 the utilities' costs of property taxes. The imposition of the



1 replacement taxes pursuant to chapter 437A is not intended to  
2 initiate any change in the rates and charges for the sale of  
3 electricity, the sale of natural gas, or the transportation of  
4 natural gas that is subject to regulation by the board and in  
5 effect on the effective date of chapter 437A.

6 The cost of the replacement taxes imposed by chapter 437A  
7 shall be allocated among and within customer classes in a  
8 manner that will replicate the tax cost burden of the current  
9 property tax on individual customers to the maximum extent  
10 practicable.

11 Upon the restructuring of the electric industry in this  
12 state so that individual consumers are given the right to  
13 choose their electric suppliers, replacement tax costs shall  
14 be assigned to the service corresponding to the individual  
15 generation, transmission, and delivery taxes. In all other  
16 respects, the allocation of the replacement tax costs among  
17 and within the customer classes shall remain the same to the  
18 maximum extent practicable.

19 Notwithstanding this subsection, the board may determine  
20 the amount of replacement tax properly included in retail  
21 rates subject to its jurisdiction. The board may determine  
22 whether the base rates or some other form of rate is most  
23 appropriate for recovery of the costs of the replacement tax,  
24 subject to the requirement that utility rates be reasonable  
25 and just. The board may also determine the appropriate  
26 allocation of the tax. Any significant modification to rate  
27 design relating to the replacement tax shall be made in a  
28 manner consistent with this subsection unless made in a  
29 contested case proceeding where the impact of such  
30 modification on competition and consumer costs is considered.

31 NEW SUBSECTION. 23. On or before July 1, 1999, the  
32 utilities board, in consultation with the department of  
33 revenue and finance, shall initiate and coordinate the  
34 establishment of a replacement tax study committee and provide  
35 staffing assistance to the committee. It is the intent of the

1 general assembly that the committee include representatives of  
2 the utilities board, department of revenue and finance,  
3 department of management, investor-owned utilities, municipal  
4 utilities, cooperative utilities, local governments, major  
5 customer classes, and other stakeholders.

6 The committee shall study the effects of the replacement  
7 tax on both restructuring and the development of competition  
8 in the gas and electric industries in this state. The board  
9 shall report to the general assembly by January 1 of each year  
10 through 2002, the results of the study, and the committee's  
11 recommendations as to whether the replacement tax, in its then  
12 present form, should be continued, whether a different form of  
13 taxation of electric and gas utilities should be adopted in  
14 order to allow free and fair competition in the electric and  
15 gas industries, and fair competitive prices for all classes of  
16 consumers, whether a different basis for determination of the  
17 generation, transmission, and delivery taxes should be adopted  
18 or whether the relative share of the total replacement tax  
19 burden imposed on each of the generation, transmission, and  
20 delivery functions should be modified in order to allow free  
21 and fair competition in the electric and gas industries, and  
22 fair competitive prices for all classes of consumers, and  
23 whether the replacement tax in its then present form,  
24 appropriately accounts for the decline in value of electric  
25 power generating plants. The replacement tax study committee  
26 shall reconvene by January 1, 2005, to further study these  
27 same issues, and the board shall report the results of the  
28 study and the committee's recommendations to the general  
29 assembly by January 1, 2007.

30 Upon recommendation of the committee, the board may  
31 contract for services necessary to the implementation of this  
32 subsection with persons who are not state employees,  
33 including, but not limited to, facilitators, consultants, and  
34 other experts required to assist the committee. The cost of  
35 contracted services shall not be paid from appropriated funds,

1 but shall be assessed to entities paying replacement tax  
2 pursuant to chapter 437A, subchapter 2, pro rata, based on the  
3 amount of tax paid.

4 Sec. 38. SPECIAL REPORTING REQUIREMENTS. Within ninety  
5 days of the effective date of this Act, each electric company,  
6 electric cooperative not described in section 437A.7,  
7 subsection 2, paragraph "c", municipal utility, and natural  
8 gas company shall report to the director, by certified  
9 statement subject to audit, the following information:

10 1. The entity's liability for centrally assessed property  
11 tax, as defined in section 437A.3, subsection 2, allocated to  
12 electric service for the assessment years 1992 through 1996 on  
13 the basis of property tax payments made.

14 2. The entity's liability for centrally assessed property  
15 tax, as defined in section 437A.3, subsection 2, allocated to  
16 natural gas service for the assessment years 1992 through 1996  
17 on the basis of property tax payments made.

18 3. The entity's total kilowatt-hours of electricity  
19 generated which would have been subject to taxation under  
20 section 437A.6 for the 1997 assessment year had such taxation  
21 been in effect for assessment year 1997. Kilowatt-hours of  
22 electricity generated by a facility which was jointly owned or  
23 leased in assessment year 1997 shall be calculated and  
24 reported pursuant to section 437A.6, subsection 2, as if such  
25 subsection had been in effect for 1997.

26 4. The entity's total pole miles of electric transmission  
27 lines owned or leased on December 31, 1997, by line voltage,  
28 which would have been subject to taxation under section 437A.7  
29 for the 1997 assessment year had such taxation been in effect  
30 for assessment year 1997. Pole miles of electric transmission  
31 lines which were jointly owned or leased in assessment year  
32 1997 shall be calculated and reported pursuant to section  
33 437A.7, subsection 3, as if such subsection had been in effect  
34 for assessment year 1997.

35 5. The entity's total kilowatt-hours of electricity

1 delivered to consumers which would have been subject to  
2 taxation under section 437A.4 for the assessment years 1993  
3 through 1997 had such taxation been in effect for such  
4 assessment years.

5 6. The entity's total therms of natural gas delivered to  
6 consumers which would have been subject to taxation under  
7 section 437A.5 for the assessment years 1993 through 1997 had  
8 such taxation been in effect for such assessment years.

9 7. For each generation and transmission electric  
10 cooperative, the excess property tax liability assignable to  
11 each electric competitive service area principally served by  
12 its distribution electric cooperative and municipal electric  
13 cooperative association members pursuant to section 437A.4,  
14 subsection 3, paragraph "c", subparagraph (4).

15 8. For each municipal electric cooperative association,  
16 the excess property tax liability assignable to each electric  
17 competitive service area principally served by its municipal  
18 utility members on January 1, 1998.

19 If information necessary to compute the delivery tax rate  
20 for any electric or natural gas competitive service area is  
21 not timely reported, the director shall estimate a delivery  
22 tax rate for such electric or natural gas competitive service  
23 area which shall not be lower than the highest electric or  
24 natural gas delivery tax rate computed for other electric or  
25 natural gas competitive service areas. However, if such  
26 information is provided within thirty days after the director  
27 has published in the Iowa administrative bulletin the delivery  
28 tax rates computed pursuant to section 437A.4, subsection 3,  
29 paragraph "d", and section 437A.5, subsection 3, paragraph  
30 "c", the director shall recalculate the electric or natural  
31 gas delivery tax rate for such electric or natural gas  
32 competitive service area and notify the taxpayers of the new  
33 electric or natural gas delivery tax rate by publication in  
34 the Iowa administrative bulletin on or before January 31,  
35 1999.

1 Sec. 39. Sections 428.37 and 437.14, Code 1997, are  
2 repealed.

3 Sec. 40. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

4 1. This Act, being deemed of immediate importance, takes  
5 effect upon enactment.

6 2. This Act is retroactively applicable to property tax  
7 assessment years beginning on or after January 1, 1998, and to  
8 replacement tax years beginning on or after January 1, 1998.

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## SENATE FILE 2416

H-9205

1 Amend Senate File 2416, as amended, passed, and  
 2 reprinted by the Senate, as follows:

3 1. Page 1, line 1, by striking the word  
 4 "PROVISIONS" and inserting the following:  
 5 "PROVISION"

6 2. Page 3, line 32, by striking the figure "1996"  
 7 and inserting the following: "1997".

8 3. Page 4, line 1, by striking the figure "1996"  
 9 and inserting the following: "1997".

10 4. Page 4, line 5, by striking the figure "1992"  
 11 and inserting the following: "1993".

12 5. Page 4, line 6, by striking the figure "1996"  
 13 and inserting the following: "1997".

14 6. Page 4, line 8, by striking the figure "1997"  
 15 and inserting the following: "1998".

16 7. Page 5, line 13, by striking the figure "1998"  
 17 and inserting the following: "1999".

18 8. Page 5, line 17, by striking the figure "1998"  
 19 and inserting the following: "1999".

20 9. Page 6, line 35, by striking the figure "1997"  
 21 and inserting the following: "1998".

22 10. Page 14, line 33, by striking the figure  
 23 "1998" and inserting the following: "1999".

24 11. Page 17, line 20, by striking the word and  
 25 figures "1992 through 1996" and inserting the  
 26 following: "1993 through 1997".

27 12. Page 17, line 25, by striking the figure  
 28 "1996" and inserting the following: "1997".

29 13. Page 17, line 33, by striking the figure  
 30 "1997" and inserting the following: "1998".

31 14. Page 17, line 34, by striking the figure  
 32 "1997" and inserting the following: "1998".

33 15. Page 18, line 11, by striking the figure  
 34 "1997" and inserting the following: "1998".

35 16. Page 18, line 12, by striking the figure  
 36 "1997" and inserting the following: "1998".

37 17. Page 18, line 19, by striking the figure  
 38 "1997" and inserting the following: "1998".

39 18. Page 18, line 20, by striking the figure  
 40 "1997" and inserting the following: "1998".

41 19. Page 18, line 33, by striking the figure  
 42 "1998" and inserting the following: "1999".

43 20. Page 19, line 5, by striking the figure  
 44 "1997" and inserting the following: "1998".

45 21. Page 19, line 13, by striking the figure  
 46 "1997" and inserting the following: "1998".

47 22. Page 19, line 18, by striking the word and  
 48 figures "1992 through 1996" and inserting the  
 49 following: "1993 through 1997".

50 23. Page 19, line 22, by striking the figure

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Page 2

1 "1997" and inserting the following: "1998".  
2 24. Page 19, line 23, by striking the figure  
3 "1997" and inserting the following: "1998".  
4 25. Page 19, line 33, by striking the figure  
5 "1997" and inserting the following: "1998".  
6 26. Page 19, line 35, by striking the figure  
7 "1997" and inserting the following: "1998".  
8 27. Page 20, line 4, by striking the figure  
9 "1998" and inserting the following: "1999".  
10 28. Page 21, line 12, by striking the figure  
11 "1998" and inserting the following: "1999".  
12 29. Page 21, line 19, by striking the figure  
13 "1997" and inserting the following: "1998".  
14 30. Page 22, line 12, by striking the figure  
15 "1998" and inserting the following: "1999".  
16 31. Page 23, line 2, by striking the figure  
17 "1998" and inserting the following: "1999".  
18 32. Page 23, line 8, by striking the figure  
19 "1997" and inserting the following: "1998".  
20 33. Page 23, line 12, by striking the figure  
21 "1997" and inserting the following: "1998".  
22 34. Page 23, line 15, by striking the figure  
23 "1997" and inserting the following: "1998".  
24 35. Page 23, line 22, by striking the figure  
25 "1998" and inserting the following: "1999".  
26 36. Page 23, line 27, by striking the figure  
27 "1997" and inserting the following: "1998".  
28 37. Page 23, line 29, by striking the figure  
29 "1997" and inserting the following: "1998".  
30 38. Page 24, line 3, by striking the figure  
31 "1998" and inserting the following: "1999".  
32 39. Page 24, line 27, by striking the figure  
33 "1998" and inserting the following: "1999".  
34 40. Page 25, line 23, by striking the word and  
35 figures "1992 through 1996" and inserting the  
36 following: "1993 through 1997".  
37 41. Page 25, line 28, by striking the figure  
38 "1996" and inserting the following: "1997".  
39 42. Page 25, line 34, by striking the figure  
40 "1997" and inserting the following: "1998".  
41 43. Page 25, line 35, by striking the figure  
42 "1997" and inserting the following: "1998".  
43 44. Page 26, line 7, by striking the figure  
44 "1997" and inserting the following: "1998".  
45 45. Page 26, line 9, by striking the figure  
46 "1997" and inserting the following: "1998".  
47 46. Page 26, line 13, by striking the figure  
48 "1998" and inserting the following: "1999".  
49 47. Page 27, line 9, by striking the figure  
50 "1998" and inserting the following: "1999".

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Page 3

- 1 48. Page 27, line 25, by striking the figure
- 2 "1998" and inserting the following: "1999".
- 3 49. Page 27, line 29, by striking the figure
- 4 "1997" and inserting the following: "1998".
- 5 50. Page 28, line 22, by striking the figure
- 6 "1998" and inserting the following: "1999".
- 7 51. Page 29, line 12, by striking the figure
- 8 "1998" and inserting the following: "1999".
- 9 52. Page 29, line 18, by striking the figure
- 10 "1997" and inserting the following: "1998".
- 11 53. Page 29, line 25, by striking the figure
- 12 "1998" and inserting the following: "1999".
- 13 54. Page 33, line 4, by striking the figure
- 14 "1998" and inserting the following: "1999".
- 15 55. Page 34, line 9, by striking the figure
- 16 "1999" and inserting the following: "2000".
- 17 56. Page 35, line 6, by striking the word and
- 18 figures "1992 through 1996" and inserting the
- 19 following: "1993 through 1997".
- 20 57. Page 35, line 33, by striking the figure
- 21 "1998" and inserting the following: "1999".

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- 22 58. Page 44, lines 19 and 20, by striking the
- 23 word and figures "1998, 1999, and 2000" and inserting
- 24 the following: "1999, 2000, and 2001".

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- 25 59. Page 46, line 16, by striking the figure
- 26 "1996" and inserting the following: "1997".
- 27 60. Page 46, line 32, by striking the figure
- 28 "2002" and inserting the following: "2003".
- 29 61. Page 47, line 4, by striking the figure
- 30 "2001" and inserting the following: "2002".
- 31 62. Page 48, line 3, by striking the figure
- 32 "1998" and inserting the following: "1999".
- 33 63. Page 48, line 13, by striking the figure
- 34 "1997" and inserting the following: "1998".
- 35 64. Page 48, line 19, by striking the figure
- 36 "1997" and inserting the following: "1998".
- 37 65. Page 49, line 3, by striking the figure
- 38 "1997" and inserting the following: "1998".
- 39 66. Page 49, line 4, by striking the figure
- 40 "1997" and inserting the following: "1998".
- 41 67. Page 49, line 11, by striking the figure
- 42 "1998" and inserting the following: "1999".
- 43 68. Page 50, line 5, by striking the figure
- 44 "1997" and inserting the following: "1998".
- 45 69. Page 50, line 22, by striking the figure
- 46 "1998" and inserting the following: "1999".
- 47 70. Page 50, line 23, by striking the figure
- 48 "1998" and inserting the following: "1999".
- 49 71. Page 50, line 30, by striking the figure
- 50 "1998" and inserting the following: "1999".

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Page 4

- 1 72. Page 50, line 31, by striking the figure  
2 "1998" and inserting the following: "1999".
- 3 73. Page 51, line 15, by striking the figure  
4 "1998" and inserting the following: "1999".
- 5 74. Page 51, line 33, by striking the figure  
6 "1999" and inserting the following: "2000".
- 7 75. Page 52, line 2, by striking the figure  
8 "1999" and inserting the following: "2000".
- 9 76. Page 59, line 31, by striking the figure  
10 "1999" and inserting the following: "2000".
- 11 77. Page 60, line 10, by striking the figure  
12 "2002" and inserting the following: "2003".
- 13 78. Page 60, line 26, by striking the figure  
14 "2005" and inserting the following: "2006".
- 15 79. Page 60, line 29, by striking the figure  
16 "2007" and inserting the following: "2008".
- 17 80. Page 61, line 12, by striking the word and  
18 figures "1992 through 1996" and inserting the  
19 following: "1993 through 1997".
- 20 81. Page 61, line 16, by striking the word and  
21 figures "1992 through 1996" and inserting the  
22 following: "1993 through 1997".
- 23 82. Page 61, line 20, by striking the figure  
24 "1997" and inserting the following: "1998".
- 25 83. Page 61, line 21, by striking the figure  
26 "1997" and inserting the following: "1998".
- 27 84. Page 61, line 23, by striking the figure  
28 "1997" and inserting the following: "1998".
- 29 85. Page 61, line 25, by striking the figure  
30 "1997" and inserting the following: "1998".
- 31 86. Page 61, line 27, by striking the figure  
32 "1997" and inserting the following: "1998".
- 33 87. Page 61, line 29, by striking the figure  
34 "1997" and inserting the following: "1998".
- 35 88. Page 61, line 30, by striking the figure  
36 "1997" and inserting the following: "1998".
- 37 89. Page 61, line 32, by striking the figure  
38 "1997" and inserting the following: "1998".
- 39 90. Page 61, line 34, by striking the figure  
40 "1997" and inserting the following: "1998".
- 41 91. Page 52, lines 2 and 3, by striking the word  
42 and figures "1993 through 1997" and inserting the  
43 following: "1994 through 1998".
- 44 92. Page 62, line 7, by striking the word and  
45 figures "1993 through 1997" and inserting the  
46 following: "1994 through 1998".
- 47 93. Page 62, line 18, by striking the figure  
48 "1998" and inserting the following: "1999".
- 49 94. Page 62, line 35, by striking the figure  
50 "1999" and inserting the following: "2000".

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Page 5

1 95. Page 63, by striking lines 3 through 8 and  
 2 inserting the following:  
 3 "Sec. \_\_\_\_ EFFECTIVE AND APPLICABILITY DATES --  
 4 DIRECTIONS TO CODE EDITOR.  
 5 1. Except as provided in subsection 2, this Act  
 6 takes effect January 1, 1999, and is applicable to  
 7 property tax assessment years beginning on or after  
 8 January 1, 1999, and to replacement tax years  
 9 beginning on or after January 1, 1999.  
 10 2. Notwithstanding subsection 1, section 437A.15,  
 11 subsection 7, as enacted in this Act and which  
 12 provides for the establishment of a task force to  
 13 study the effects of the replacement tax, takes effect  
 14 upon enactment."

*[Handwritten signature]*  
 D

By RANTS of Woodbury  
 CHAPMAN of Linn  
 WARNSTADT of Woodbury  
 DINKLA of Guthrie  
 CONNORS of Polk  
 DIX of Butler  
 HOLMES of Scott  
 GREINER of Washington  
 MILLAGE of Scott  
 WHITEAD of Woodbury  
 MAY of Worth  
 TEIG of Hamilton  
 EDDIE of Buena Vista  
 LORD of Dallas  
 KINZER of Scott  
 HUSEMAN of Cherokee

DRAKE of Pottawattamie  
 JENKINS of Black Hawk  
 VAN FOSSEN of Scott  
 CHIODO of Polk  
 HANSEN of Pottawattamie  
 GREIG of Emmet  
 KLEMME of Plymouth  
 JACOBS of Polk  
 BLODGETT of Cerro Gordo  
 METCALF of Polk  
 BRUNKHORST of Bremer  
 WEIDMAN of Cass  
 VANDE HOEF of Osceola  
 TYRRELL of Iowa  
 WITT of Black Hawk  
 RAYHONS of Hancock

H-9205 FILED APRIL 15, 1998

*A. adopted 4-16-98 (P. 1685)*  
*B. adopted 4-16-98 (P. 1701)*  
*C. adopted 4-16-98 (P. 1690)*  
*D. adopted 4-16-98 (P. 1701)*

SENATE FILE 2416

H-9158

1 Amend Senate File 2416, as amended, passed, and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 59, lines 9 and 10, by striking the words  
 4 "to the maximum extent practicable".  
 5 2. Page 59, lines 17 and 18, by striking the  
 6 words "to the maximum extent practicable".

By LARSON of Linn	OSTERHAUS of Jackson
WISE of Lee	FOEGE of Linn
MYERS of Johnson	JOCHUM of Dubuque
CORMACK of Webster	

H-9158 FILED APRIL 14, 1998

*Lost 4/16/98 (p. 1692)*

SENATE FILE 2416

H-9159

1 Amend Senate File 2416, as amended, passed, and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 63, by striking lines 3 through 8 and  
 4 inserting the following:  
 5 "Sec. \_\_\_\_ . EFFECTIVE DATE. This Act takes effect  
 6 July 1, 1999."  
 7 2. Title page, lines 6 and 7, by striking the  
 8 words "providing for the Act's retroactive  
 9 applicability,".

By LARSON of Linn	BODDICKER of Cedar
WISE of Lee	HAHN of Muscatine
MYERS of Johnson	NELSON of Marshall
CORMACK of Webster	FOEGE of Linn
THOMSON of Linn	OSTERHAUS of Jackson
BERNAU of Story	O'BRIEN of Boone
CHURCHILL of Polk	

H-9159 FILED APRIL 14, 1998

*W/D 4/16/98 (p. 1692)*

SENATE FILE 2416

H-9184

1 Amend Senate File 2416, as amended, passed, and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 44, lines 19 and 20, by striking the  
 4 words and figures "tax years 1998, 1999, and 2000" and  
 5 inserting the following: "a tax year".

By GRIES of Crawford  
 WISE of Lee  
 LARSON of Linn

H-9184 FILED APRIL 15, 1998

*O/orden  
4/16/98  
(p. 1690)*

SENATE FILE 2416

H-9219

1 Amend Senate File 2416, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 45, by inserting after line 25 the  
4 following:

5 "It is the intent of the general assembly that the  
6 general assembly evaluate the impact of the imposition  
7 of the replacement tax for purposes of determining  
8 whether this subsection shall remain in effect and  
9 whether a determination shall be made as to the  
10 necessity of a recalculation as provided in this  
11 subsection for tax years beginning after tax year  
12 2000."

By JACOBS of Polk  
CONNORS of Polk

H-9219 FILED APRIL 16, 1998

*Adopted*  
*4-16-98 (p.1691)*

## SENATE FILE 2416

H-9218

- 1 Amend Senate File 2416, as amended, passed, and  
2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 4, by striking the words "and  
4 natural gas".
  - 5 2. Page 1, line 11, by striking the words "and  
6 natural gas".
  - 7 3. Page 1, line 12, by striking the words "and  
8 natural gas".
  - 9 4. Page 1, line 25, by striking the words "and  
10 natural gas".
  - 11 5. Page 1, line 32, by striking the words "and  
12 natural gas".
  - 13 6. Page 2, line 1, by striking the words "and  
14 natural gas".
  - 15 7. Page 2, line 10, by striking the words "gas  
16 and".
  - 17 8. Page 2, line 22, by striking the words "and  
18 natural gas".
  - 19 9. Page 2, lines 23 and 24, by striking the words  
20 "and natural gas".
  - 21 10. Page 2, line 25, by striking the words "and  
22 natural gas".
  - 23 11. Page 2, line 29, by striking the words "and  
24 natural gas".
  - 25 12. Page 3, line 9, by striking the words  
26 "natural gas companies,".
  - 27 13. Page 3, lines 14 and 15, by striking the  
28 words "or natural gas".
  - 29 14. Page 3, line 19, by striking the words "and  
30 natural gas".
  - 31 15. Page 3, line 28, by striking the words  
32 "natural gas company,".
  - 33 16. Page 4, lines 2 and 3, by striking the words  
34 ", natural gas companies,".
  - 35 17. Page 4, by striking lines 15 through 18 and  
36 inserting the following: "to electric service."
  - 37 18. Page 4, lines 19 and 20, by striking the  
38 words "or natural gas".
  - 39 19. Page 4, lines 21 and 22, by striking the  
40 words "or natural gas".
  - 41 20. Page 4, lines 23 and 24, by striking the  
42 words "or natural gas".
  - 43 21. Page 4, line 27, by striking the words "or  
44 natural gas".
  - 45 22. Page 4, line 35, by striking the words "or  
46 natural gas".
  - 47 23. Page 5, line 1, by striking the words "or  
48 natural gas".
  - 49 24. Page 5, line 2, by striking the words "or  
50 natural gas".

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Page 2

- 1 25. Page 6, line 7, by striking the words "or
- 2 natural gas".
- 3 26. Page 7, by striking lines 14 through 16.
- 4 27. Page 7, lines 26 and 27, by striking the
- 5 words "or a natural gas system, either of".
- 6 28. By striking page 7, line 31, through page 14,
- 7 line 33.
- 8 29. Page 14, line 35, by striking the word
- 9 "municipal" and inserting the following: "or
- 10 municipal".
- 11 30. Page 15, line 1, by striking the words "or
- 12 natural gas company,".
- 13 31. Page 15, line 4, by striking the word
- 14 "municipal" and inserting the following: "or
- 15 municipal".
- 16 32. Page 15, lines 4 and 5, by striking the words
- 17 ",or natural gas company".
- 18 33. Page 15, by striking line 20 and inserting
- 19 the following: "electricity under section 437A.4,".
- 20 34. Page 15, line 23, by striking the words
- 21 "natural gas company,".
- 22 35. Page 16, lines 7 and 8 by striking the words
- 23 "natural gas company,".
- 24 36. Page 16, line 10, by striking the figure
- 25 "437A.5,".
- 26 37. By striking page 24, line 29, through page
- 27 29, line 26.
- 28 38. Page 32, by striking lines 8 through 11 and
- 29 inserting the following: "competitive service area
- 30 during the tax year."
- 31 39. Page 32, by striking lines 15 through 18 and
- 32 inserting the following: "2."
- 33 40. Page 32, by striking lines 26 and 27 and
- 34 inserting the following: "subsection 2, and sections
- 35 437A.6 and 437A.7,".
- 36 41. Page 33, line 3, by striking the words "or
- 37 natural gas".
- 38 42. Page 33, by striking lines 10 through 13 and
- 39 inserting the following: "the tax year."
- 40 43. Page 33, lines 17 and 18, by striking the
- 41 words "and natural gas-related transfers".
- 42 44. Page 33, line 19, by striking the words and
- 43 figures ", and section 437A.5, subsection f".
- 44 45. Page 33, by striking lines 21 and 22, and
- 45 inserting the following: "437A.4, subsection 1,
- 46 paragraph "b", due for the tax year."
- 47 46. Page 33, lines 34 and 35, by striking the
- 48 words and figures "and section 437A.5, subsection 8,".
- 49 47. Page 35, line 1, by striking the words "and
- 50 natural gas".

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Page 3

- 1 48. Page 35, line 3, by striking the words and  
2 figures "and section 437A.5, subsection 3,".
- 3 49. Page 35, line 8, by striking the words "or  
4 natural gas".
- 5 50. Page 35, line 12, by striking the words "or  
6 natural gas".
- 7 51. Page 35, lines 13 and 14, by striking the  
8 words and figures ", and section 437A.5, subsection 3,  
9 paragraph "a".
- 10 52. Page 42, lines 3 and 4, by striking the words  
11 "or therms of natural gas".
- 12 53. Page 42, line 13, by striking the words "or  
13 therms".
- 14 54. Page 42, lines 18 and 19, by striking the  
15 words "or therms of natural gas".
- 16 55. Page 43, lines 4 and 5, by striking the words  
17 "or therms of natural gas".
- 18 56. Page 46, lines 25 and 26, by striking the  
19 words "natural gas companies,".
- 20 57. Page 47, line 9, by striking the words "or  
21 natural gas".
- 22 58. Page 51, line 22, by striking the words  
23 "natural gas company,".
- 24 59. Page 51, line 34, by striking the words  
25 "natural gas company,".
- 26 60. Page 52, lines 16 and 17, by striking the  
27 words "natural gas companies,".
- 28 61. Page 54, line 9, by striking the words  
29 "natural gas company,".
- 30 62. Page 55, lines 29 and 30 by striking the  
31 words ", except those natural gas pipelines permitted  
32 pursuant to chapter 479,".
- 33 63. Page 56, lines 11 and 12 by striking the  
34 words "other than natural gas pipelines permitted  
35 pursuant to chapter 479,".
- 36 64. Page 56, lines 26 and 27 by striking the  
37 words "other than natural gas pipelines permitted  
38 pursuant to chapter 479".
- 39 65. Page 58, lines 6 and 7 by striking the words  
40 "other than natural gas pipelines permitted pursuant  
41 to chapter 479".
- 42 66. Page 58, lines 16 and 17 by striking the  
43 words ", other than natural gas pipelines permitted  
44 pursuant to chapter 479,".
- 45 67. Page 59, by striking lines 3 and 4 and  
46 inserting the following: "electricity that is subject  
47 to regulation by the board and in".
- 48 68. Page 60, line 8, by striking the words "gas  
49 and electric industries" and inserting the following:  
50 "electric industry".

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Page 4

- 1 69. Page 60, line 13, by striking the words "and
- 2 gas".
- 3 70. Page 60, lines 14 and 15, by striking the
- 4 words "and gas industries" and inserting the
- 5 following: "industry".
- 6 71. Page 60, line 21, by striking the words "and
- 7 gas industries" and inserting the following:
- 8 "industry".
- 9 72. Page 61, lines 7 and 8, by striking the words
- 10 "municipal utility, and natural gas company" and
- 11 inserting the following: "and municipal utility".
- 12 73. Page 61, by striking lines 14 through 17.
- 13 74. Page 62, by striking lines 5 through 8.
- 14 75. Page 62, line 20, by striking the words "or
- 15 natural gas".
- 16 76. Page 62, line 22, by striking the words "or
- 17 natural gas".
- 18 77. Page 62, lines 23 and 24, by striking the
- 19 words "or natural gas".
- 20 78. Page 62, lines 24 and 25 by striking the
- 21 words "or natural gas".
- 22 79. Page 62, lines 29 and 30, by striking the
- 23 words and figures "and section 437A.5, subsection 3,
- 24 paragraph "c",".
- 25 80. Page 62, line 30, by striking the words "or
- 26 natural".
- 27 81. Page 62, by striking line 31 and inserting
- 28 the following: "delivery tax rate for such electric".
- 29 82. Page 62, line 33, by striking the words "or
- 30 natural gas".
- 31 83. Title page, line 2, by striking the words
- 32 "and natural gas".
- 33 84. Title page, line 3, by striking the words
- 34 "and natural gas".
- 35 85. Title page, line 5, by striking the words
- 36 "and natural gas".
- 37 86. By renumbering as necessary.

By WISE of Lee

H-9218 FILED APRIL 16, 1998

*Loat*  
*4/16/98 (p. 1696)*



SENATE FILE 2416

H-9211

1 Amend Senate File 2416, as amended, passed, and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 29, by striking lines 29 through 33 and  
 4 inserting the following:  
 5 "1. A replacement generation tax in an amount  
 6 determined by the director in consultation with the  
 7 utility industry and all classes of consumers is  
 8 imposed on every person generating electricity on each  
 9 kilowatt-hour of electricity generated within this  
 10 state during the tax year, except electricity  
 11 generated by the following:"

By BERNAU of Story

H-9211 FILED APRIL 16, 1998

*Loat  
4/16/98 (p. 1686)*

SENATE FILE 2416

H-9212

1 Amend Senate File 2416, as amended, passed, and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 29, line 29, by striking the figure "six"  
 4 and inserting the following: "eighteen".

By BERNAU of Story

H-9212 FILED APRIL 16, 1998

*W/D 4/16/98 (p. 1685)*

SENATE FILE 2416

H-9216

1 Amend the amendment, H-9205, to Senate File 2416,  
 2 as amended, passed, and reprinted by the Senate, as  
 3 follows:  
 4 1. Page 3, line 24, by striking the word and  
 5 figure "and 2001" and inserting the following: "2001,  
 6 2002, 2003, 2004, 2005, 2006, 2007, and 2008".

By WISE of Lee  
MYERS of Johnson  
GRIES of Crawford

H-9216 FILED APRIL 16, 1998

*Loat  
4-16-98  
(p. 1687)*

SENATE FILE 2416

H-9228

1 Amend the amendment, H-9205, to Senate File 2416,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

- 4 1. Page 1, line 7, by striking the figure "1997"
- 5 and inserting the following: "1998".
- 6 2. Page 1, line 9, by striking the figure "1997"
- 7 and inserting the following: "1998".
- 8 3. Page 1, line 11, by striking the figure "1993"
- 9 and inserting the following: "1994".
- 10 4. Page 1, line 13, by striking the figure "1997"
- 11 and inserting the following: "1998".
- 12 5. Page 1, line 15, by striking the figure "1998"
- 13 and inserting the following: "1999".
- 14 6. Page 1, line 17, by striking the figure "1999"
- 15 and inserting the following: "2000".
- 16 7. Page 1, line 19, by striking the figure "1999"
- 17 and inserting the following: "2000".
- 18 8. Page 1, line 21, by striking the figure "1998"
- 19 and inserting the following: "1999".
- 20 9. Page 1, line 23, by striking the figure "1999"
- 21 and inserting the following: "2000".
- 22 10. Page 1, line 25, by striking the word and
- 23 figures "1993 through 1997" and inserting the
- 24 following: "1994 through 1998".
- 25 11. Page 1, line 28, by striking the figure
- 26 "1997" and inserting the following: "1998".
- 27 12. Page 1, line 30, by striking the figure
- 28 "1998" and inserting the following: "1999".
- 29 13. Page 1, line 32, by striking the figure
- 30 "1998" and inserting the following: "1999".
- 31 14. Page 1, line 34, by striking the figure
- 32 "1998" and inserting the following: "1999".
- 33 15. Page 1, line 36, by striking the figure
- 34 "1998" and inserting the following: "1999".
- 35 16. Page 1, line 38, by striking the figure
- 36 "1998" and inserting the following: "1999".
- 37 17. Page 1, line 40, by striking the figure
- 38 "1998" and inserting the following: "1999".
- 39 18. Page 1, line 42, by striking the figure
- 40 "1999" and inserting the following: "2000".
- 41 19. Page 1, line 44, by striking the figure
- 42 "1998" and inserting the following: "1999".
- 43 20. Page 1, line 46, by striking the figure
- 44 "1998" and inserting the following: "1999".
- 45 21. Page 1, line 49, by striking the word and
- 46 figure "1993 through 1997" and inserting the
- 47 following: "1994 through 1998".
- 48 22. Page 2, line 1, by striking the figure "1998"
- 49 and inserting the following: "1999".
- 50 23. Page 2, line 3, by striking the figure "1998"

*Div.*  
*A*

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Page 2

- 1 and inserting the following: "1999".
- 2 24. Page 2, line 5, by striking the figure "1998"
- 3 and inserting the following: "1999".
- 4 25. Page 2, line 7, by striking the figure "1998"
- 5 and inserting the following: "1999".
- 6 26. Page 2, line 9, by striking the figure "1999"
- 7 and inserting the following: "2000".
- 8 27. Page 2, line 11, by striking the figure
- 9 "1999" and inserting the following: "2000".
- 10 28. Page 2, line 13, by striking the figure
- 11 "1998" and inserting the following: "1999".
- 12 29. Page 2, line 15, by striking the figure
- 13 "1999" and inserting the following: "2000".
- 14 30. Page 2, line 17, by striking the figure
- 15 "1999" and inserting the following: "2000".
- 16 31. Page 2, line 19, by striking the figure
- 17 "1998" and inserting the following: "1999".
- 18 32. Page 2, line 21, by striking the figure
- 19 "1998" and inserting the following: "1999".
- 20 33. Page 2, line 23, by striking the figure
- 21 "1998" and inserting the following: "1999".
- 22 34. Page 2, line 25, by striking the figure
- 23 "1999" and inserting the following: "2000".
- 24 35. Page 2, line 27, by striking the figure
- 25 "1998" and inserting the following: "1999".
- 26 36. Page 2, line 29, by striking the figure
- 27 "1998" and inserting the following: "1999".
- 28 37. Page 2, line 31, by striking the figure
- 29 "1999" and inserting the following: "2000".
- 30 38. Page 2, line 33, by striking the figure
- 31 "1999" and inserting the following: "2000".
- 32 39. Page 2, line 36, by striking the word and
- 33 figures "1993 through 1997" and inserting the
- 34 following: "1994 through 1998".
- 35 40. Page 2, line 38, by striking the figure
- 36 "1997" and inserting the following: "1998".
- 37 41. Page 2, line 40, by striking the figure
- 38 "1998" and inserting the following: "1999".
- 39 42. Page 2, line 42, by striking the figure
- 40 "1998" and inserting the following: "1999".
- 41 43. Page 2, line 44, by striking the figure
- 42 "1998" and inserting the following: "1999".
- 43 44. Page 2, line 46, by striking the figure
- 44 "1998" and inserting the following: "1999".
- 45 45. Page 2, line 48, by striking the figure
- 46 "1999" and inserting the following: "2000".
- 47 46. Page 2, line 50, by striking the figure
- 48 "1999" and inserting the following: "2000".
- 49 47. Page 3, line 2, by striking the figure "1999"
- 50 and inserting the following: "2000".

*Div. A*

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Page 3

- 1 48. Page 3, line 4, by striking the figure "1998"
- 2 and inserting the following: "1999".
- 3 49. Page 3, line 6, by striking the figure "1999"
- 4 and inserting the following: "2000".
- 5 50. Page 3, line 8, by striking the figure "1999"
- 6 and inserting the following: "2000".
- 7 51. Page 3, line 10, by striking the figure
- 8 "1998" and inserting the following: "1999".
- 9 52. Page 3, line 12, by striking the figure
- 10 "1999" and inserting the following: "2000".
- 11 53. Page 3, line 14, by striking the figure
- 12 "1999" and inserting the following: "2000".
- 13 54. Page 3, line 16, by striking the figure
- 14 "2000" and inserting the following: "2001".
- 15 55. Page 3, line 19, by striking the word and
- 16 figures "1993 through 1997" and inserting the
- 17 following: "1994 through 1998".
- 18 56. Page 3, line 21, by striking the figure
- 19 "1999" and inserting the following: "2000".

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- 20 57. Page 3, line 24, by striking the word and
- 21 figures "1999, 2000, and 2001" and inserting the
- 22 following: "2000, 2001, and 2002".

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- 23 58. Page 3, line 26, by striking the figure
- 24 "1997" and inserting the following: "1998".
- 25 59. Page 3, line 28, by striking the figure
- 26 "2003" and inserting the following: "2004".
- 27 60. Page 3, line 30, by striking the figure
- 28 "2002" and inserting the following: "2003".
- 29 61. Page 3, line 32, by striking the figure
- 30 "1999" and inserting the following: "2000".
- 31 62. Page 3, line 34, by striking the figure
- 32 "1998" and inserting the following: "1999".
- 33 63. Page 3, line 36, by striking the figure
- 34 "1998" and inserting the following: "1999".
- 35 64. Page 3, line 38, by striking the figure
- 36 "1998" and inserting the following: "1999".
- 37 65. Page 3, line 40, by striking the figure
- 38 "1998" and inserting the following: "1999".
- 39 66. Page 3, line 42, by striking the figure
- 40 "1999" and inserting the following: "2000".
- 41 67. Page 3, line 44, by striking the figure
- 42 "1998" and inserting the following: "1999".
- 43 68. Page 3, line 46, by striking the figure
- 44 "1999" and inserting the following: "2000".
- 45 69. Page 3, line 48, by striking the figure
- 46 "1999" and inserting the following: "2000".
- 47 70. Page 3, line 50, by striking the figure
- 48 "1999" and inserting the following: "2000".
- 49 71. Page 4, line 2, by striking the figure "1999"
- 50 and inserting the following: "2000".

*Div. A-*

*B*

*Div.*

*B A*

H-9228

- 1 72. Page 4, line 4, by striking the figure "1999"
- 2 and inserting the following: "2000".
- 3 73. Page 4, line 6, by striking the figure "2000"
- 4 and inserting the following: "2001".
- 5 74. Page 4, line 8, by striking the figure "2000"
- 6 and inserting the following: "2001".
- 7 75. Page 4, line 10, by striking the figure
- 8 "2000" and inserting the following: "2001".
- 9 76. Page 4, line 12, by striking the figure
- 10 "2003" and inserting the following: "2004".
- 11 77. Page 4, line 14, by striking the figure
- 12 "2006" and inserting the following: "2007".
- 13 78. Page 4, line 16, by striking the figure
- 14 "2008" and inserting the following: "2009".
- 15 79. Page 4, line 19, by striking the word and
- 16 figures "1993 through 1997" and inserting the
- 17 following: "1994 through 1998".
- 18 80. Page 4, line 22, by striking the word and
- 19 figures "1993 through 1997" and inserting the
- 20 following: "1994 through 1998".
- 21 81. Page 4, line 24, by striking the figure
- 22 "1998" and inserting the following: "1999".
- 23 82. Page 4, line 26, by striking the figure
- 24 "1998" and inserting the following: "1999".
- 25 83. Page 4, line 28, by striking the figure
- 26 "1998" and inserting the following: "1999".
- 27 84. Page 4, line 30, by striking the figure
- 28 "1998" and inserting the following: "1999".
- 29 85. Page 4, line 32, by striking the figure
- 30 "1998" and inserting the following: "1999".
- 31 86. Page 4, line 34, by striking the figure
- 32 "1998" and inserting the following: "1999".
- 33 87. Page 4, line 36, by striking the figure
- 34 "1998" and inserting the following: "1999".
- 35 88. Page 4, line 38, by striking the figure
- 36 "1998" and inserting the following: "1999".
- 37 89. Page 4, line 40, by striking the figure
- 38 "1998" and inserting the following: "1999".
- 39 90. Page 4, line 43, by striking the word and
- 40 figures "1994 through 1998" and inserting the
- 41 following: "1995 through 1999".
- 42 91. Page 4, line 46, by striking the word and
- 43 figures "1994 through 1998" and inserting the
- 44 following: "1995 through 1999".
- 45 92. Page 4, line 48, by striking the figure
- 46 "1999" and inserting the following: "2000".
- 47 93. Page 4, line 50, by striking the figure
- 48 "2000" and inserting the following: "2001".
- 49 94. Page 5, line 6, by striking the word and
- 50 "January" and inserting the following: "July".

*Div.*  
*A.*

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Page 5

- 1 95. Page 5, line 8, by striking the figure "1999"
- 2 and inserting the following: "2000".
- 3 96. Page 5, line 9, by striking the figure "1999"
- 4 and inserting the following: "2000".

By LARSON of Linn  
MYERS of Johnson

H-9228 FILED APRIL 16, 1998

- A. Lost 4-16-98 (P. 1700)
- B. W/D 4-16-98 (P. 1700)
- C. W/D 4-16-98 (P. 1701)

HOUSE AMENDMENT TO  
SENATE FILE 2416

S-5739

- 1 Amend Senate File 2416, as amended, passed, and  
2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 1, by striking the word  
4 "PROVISIONS" and inserting the following:  
5 "PROVISION".
- 6 2. Page 3, line 32, by striking the figure "1996"  
7 and inserting the following: "1997".
- 8 3. Page 4, line 1, by striking the figure "1996"  
9 and inserting the following: "1997".
- 10 4. Page 4, line 5, by striking the figure "1992"  
11 and inserting the following: "1993".
- 12 5. Page 4, line 6, by striking the figure "1996"  
13 and inserting the following: "1997".
- 14 6. Page 4, line 8, by striking the figure "1997"  
15 and inserting the following: "1998".
- 16 7. Page 5, line 13, by striking the figure "1998"  
17 and inserting the following: "1999".
- 18 8. Page 5, line 17, by striking the figure "1998"  
19 and inserting the following: "1999".
- 20 9. Page 6, line 35, by striking the figure "1997"  
21 and inserting the following: "1998".
- 22 10. Page 14, line 33, by striking the figure  
23 "1998" and inserting the following: "1999".
- 24 11. Page 17, line 20, by striking the word and  
25 figures "1992 through 1996" and inserting the  
26 following: "1993 through 1997".
- 27 12. Page 17, line 25, by striking the figure  
28 "1996" and inserting the following: "1997".
- 29 13. Page 17, line 33, by striking the figure  
30 "1997" and inserting the following: "1998".
- 31 14. Page 17, line 34, by striking the figure  
32 "1997" and inserting the following: "1998".
- 33 15. Page 18, line 11, by striking the figure  
34 "1997" and inserting the following: "1998".
- 35 16. Page 18, line 12, by striking the figure  
36 "1997" and inserting the following: "1998".
- 37 17. Page 18, line 19, by striking the figure  
38 "1997" and inserting the following: "1998".
- 39 18. Page 18, line 20, by striking the figure  
40 "1997" and inserting the following: "1998".
- 41 19. Page 18, line 33, by striking the figure  
42 "1998" and inserting the following: "1999".
- 43 20. Page 19, line 5, by striking the figure  
44 "1997" and inserting the following: "1998".
- 45 21. Page 19, line 13, by striking the figure  
46 "1997" and inserting the following: "1998".
- 47 22. Page 19, line 18, by striking the word and  
48 figures "1992 through 1996" and inserting the  
49 following: "1993 through 1997".
- 50 23. Page 19, line 22, by striking the figure

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Page 2

1 "1997" and inserting the following: "1998".  
2 24. Page 19, line 23, by striking the figure  
3 "1997" and inserting the following: "1998".  
4 25. Page 19, line 33, by striking the figure  
5 "1997" and inserting the following: "1998".  
6 26. Page 19, line 35, by striking the figure  
7 "1997" and inserting the following: "1998".  
8 27. Page 20, line 4, by striking the figure  
9 "1998" and inserting the following: "1999".  
10 28. Page 21, line 12, by striking the figure  
11 "1998" and inserting the following: "1999".  
12 29. Page 21, line 19, by striking the figure  
13 "1997" and inserting the following: "1998".  
14 30. Page 22, line 12, by striking the figure  
15 "1998" and inserting the following: "1999".  
16 31. Page 23, line 2, by striking the figure  
17 "1998" and inserting the following: "1999".  
18 32. Page 23, line 8, by striking the figure  
19 "1997" and inserting the following: "1998".  
20 33. Page 23, line 12, by striking the figure  
21 "1997" and inserting the following: "1998".  
22 34. Page 23, line 15, by striking the figure  
23 "1997" and inserting the following: "1998".  
24 35. Page 23, line 22, by striking the figure  
25 "1998" and inserting the following: "1999".  
26 36. Page 23, line 27, by striking the figure  
27 "1997" and inserting the following: "1998".  
28 37. Page 23, line 29, by striking the figure  
29 "1997" and inserting the following: "1998".  
30 38. Page 24, line 3, by striking the figure  
31 "1998" and inserting the following: "1999".  
32 39. Page 24, line 27, by striking the figure  
33 "1998" and inserting the following: "1999".  
34 40. Page 25, line 23, by striking the word and  
35 figures "1992 through 1996" and inserting the  
36 following: "1993 through 1997".  
37 41. Page 25, line 28, by striking the figure  
38 "1996" and inserting the following: "1997".  
39 42. Page 25, line 34, by striking the figure  
40 "1997" and inserting the following: "1998".  
41 43. Page 25, line 35, by striking the figure  
42 "1997" and inserting the following: "1998".  
43 44. Page 26, line 7, by striking the figure  
44 "1997" and inserting the following: "1998".  
45 45. Page 26, line 9, by striking the figure  
46 "1997" and inserting the following: "1998".  
47 46. Page 26, line 13, by striking the figure  
48 "1998" and inserting the following: "1999".  
49 47. Page 27, line 9, by striking the figure  
50 "1998" and inserting the following: "1999".

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Page 3

- 1 48. Page 27, line 25, by striking the figure  
2 "1998" and inserting the following: "1999".  
3 49. Page 27, line 29, by striking the figure  
4 "1997" and inserting the following: "1998".  
5 50. Page 28, line 22, by striking the figure  
6 "1998" and inserting the following: "1999".  
7 51. Page 29, line 12, by striking the figure  
8 "1998" and inserting the following: "1999".  
9 52. Page 29, line 18, by striking the figure  
10 "1997" and inserting the following: "1998".  
11 53. Page 29, line 25, by striking the figure  
12 "1998" and inserting the following: "1999".  
13 54. Page 33, line 4, by striking the figure  
14 "1998" and inserting the following: "1999".  
15 55. Page 34, line 9, by striking the figure  
16 "1999" and inserting the following: "2000".  
17 56. Page 35, line 6, by striking the word and  
18 figures "1992 through 1996" and inserting the  
19 following: "1993 through 1997".  
20 57. Page 35, line 33, by striking the figure  
21 "1998" and inserting the following: "1999".  
22 58. Page 44, lines 19 and 20, by striking the  
23 word and figures "1998, 1999, and 2000" and inserting  
24 the following: "1999, 2000, and 2001".  
25 59. Page 45, by inserting after line 25 the  
26 following:  
27 "It is the intent of the general assembly that the  
28 general assembly evaluate the impact of the imposition  
29 of the replacement tax for purposes of determining  
30 whether this subsection shall remain in effect and  
31 whether a determination shall be made as to the  
32 necessity of a recalculation as provided in this  
33 subsection for tax years beginning after tax year  
34 2000."  
35 60. Page 46, line 16, by striking the figure  
36 "1996" and inserting the following: "1997".  
37 61. Page 46, line 32, by striking the figure  
38 "2002" and inserting the following: "2003".  
39 62. Page 47, line 4, by striking the figure  
40 "2001" and inserting the following: "2002".  
41 63. Page 48, line 3, by striking the figure  
42 "1998" and inserting the following: "1999".  
43 64. Page 48, line 13, by striking the figure  
44 "1997" and inserting the following: "1998".  
45 65. Page 48, line 19, by striking the figure  
46 "1997" and inserting the following: "1998".  
47 66. Page 49, line 3, by striking the figure  
48 "1997" and inserting the following: "1998".  
49 67. Page 49, line 4, by striking the figure  
50 "1997" and inserting the following: "1998".

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Page 4

1 68. Page 49, line 11, by striking the figure  
2 "1998" and inserting the following: "1999".  
3 69. Page 50, line 5, by striking the figure  
4 "1997" and inserting the following: "1998".  
5 70. Page 50, line 22, by striking the figure  
6 "1998" and inserting the following: "1999".  
7 71. Page 50, line 23, by striking the figure  
8 "1998" and inserting the following: "1999".  
9 72. Page 50, line 30, by striking the figure  
10 "1998" and inserting the following: "1999".  
11 73. Page 50, line 31, by striking the figure  
12 "1998" and inserting the following: "1999".  
13 74. Page 51, line 15, by striking the figure  
14 "1998" and inserting the following: "1999".  
15 75. Page 51, line 33, by striking the figure  
16 "1999" and inserting the following: "2000".  
17 76. Page 52, line 2, by striking the figure  
18 "1999" and inserting the following: "2000".  
19 77. Page 59, line 31, by striking the figure  
20 "1999" and inserting the following: "2000".  
21 78. Page 60, line 10, by striking the figure  
22 "2002" and inserting the following: "2003".  
23 79. Page 60, line 26, by striking the figure  
24 "2005" and inserting the following: "2006".  
25 80. Page 60, line 29, by striking the figure  
26 "2007" and inserting the following: "2008".  
27 81. Page 61, line 12, by striking the word and  
28 figures "1992 through 1996" and inserting the  
29 following: "1993 through 1997".  
30 82. Page 61, line 16, by striking the word and  
31 figures "1992 through 1996" and inserting the  
32 following: "1993 through 1997".  
33 83. Page 61, line 20, by striking the figure  
34 "1997" and inserting the following: "1998".  
35 84. Page 61, line 21, by striking the figure  
36 "1997" and inserting the following: "1998".  
37 85. Page 61, line 23, by striking the figure  
38 "1997" and inserting the following: "1998".  
39 86. Page 61, line 25, by striking the figure  
40 "1997" and inserting the following: "1998".  
41 87. Page 61, line 27, by striking the figure  
42 "1997" and inserting the following: "1998".  
43 88. Page 61, line 29, by striking the figure  
44 "1997" and inserting the following: "1998".  
45 89. Page 61, line 30, by striking the figure  
46 "1997" and inserting the following: "1998".  
47 90. Page 61, line 32, by striking the figure  
48 "1997" and inserting the following: "1998".  
49 91. Page 61, line 34, by striking the figure  
50 "1997" and inserting the following: "1998".

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Page 5

1 92. Page 62, lines 2 and 3, by striking the word  
2 and figures "1993 through 1997" and inserting the  
3 following: "1994 through 1998".

4 93. Page 62, line 7, by striking the word and  
5 figures "1993 through 1997" and inserting the  
6 following: "1994 through 1998".

7 94. Page 62, line 18, by striking the figure  
8 "1998" and inserting the following: "1999".

9 95. Page 62, line 35, by striking the figure  
10 "1999" and inserting the following: "2000".

11 96. Page 63, by striking lines 3 through 8 and  
12 inserting the following:

13 "Sec. \_\_\_\_ . EFFECTIVE AND APPLICABILITY DATES --  
14 DIRECTIONS TO CODE EDITOR.

15 1. Except as provided in subsection 2, this Act  
16 takes effect January 1, 1999, and is applicable to  
17 property tax assessment years beginning on or after  
18 January 1, 1999, and to replacement tax years  
19 beginning on or after January 1, 1999.

20 2. Notwithstanding subsection 1, section 437A.15,  
21 subsection 7, as enacted in this Act and which  
22 provides for the establishment of a task force to  
23 study the effects of the replacement tax, takes effect  
24 upon enactment."

25 97. By renumbering, relettering, or redesignating  
26 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5739 FILED APRIL 17, 1998

CONCURRED

(p 1352)

Maddox  
McLaren  
Palmer

SSB 2202  
Ways & Means

Succeeded By  
SENATE FILE SE/HF 2416  
BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CHAIRPERSON DOUGLAS)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the replacement of property tax on property  
2 associated with electricity and natural gas with excise taxes  
3 associated with electricity and natural gas, establishing a  
4 statewide property tax on property associated with electricity  
5 and natural gas, providing for a special utility property tax  
6 levy or tax credit, providing for the Act's retroactive  
7 applicability, providing an effective date, and providing  
8 penalties.

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

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23

1 DIVISION I -- INTRODUCTORY PROVISIONS

2 Section 1. LEGISLATIVE FINDINGS. The general assembly  
3 finds that with the advent of restructuring of the electric  
4 and natural gas utility industry, a competitive environment  
5 will replace the current regulated monopoly environment.  
6 Currently, utility companies are subject to property taxes  
7 which are levied in various amounts with respect to utility  
8 property located in areas serviced by the utility companies.  
9 If the property tax, as currently levied, continues, the  
10 property tax costs in Iowa will become a factor among  
11 competitors in the pricing of electricity and natural gas.  
12 Moreover, non-Iowa located electricity and natural gas  
13 suppliers do not have property in Iowa subject to property tax  
14 and to the extent that they are located in a low property tax  
15 state, such property tax costs would grant to such non-Iowa  
16 suppliers an unfair tax advantage over Iowa-based utility  
17 companies.

18 The general assembly also finds that restructuring may  
19 result in the loss of in-lieu-of-tax transfers from surplus  
20 funds made by a municipal utility to the city. These  
21 transfers take the place of a property tax and are recognized  
22 in this Act as such.

23 Therefore, the general assembly finds that a need exists to  
24 replace the current Iowa property tax system levied on  
25 electric and natural gas utility companies located in Iowa.  
26 However, any replacement tax needs to be revenue neutral so as  
27 not to harm the fiscal stability of local governments which  
28 depend upon such utility property taxes and municipal  
29 transfers, and further, so as to negate tax costs as a factor  
30 in a competitive utility industry environment. Additionally,  
31 such replacement tax must allow fair and competitive prices  
32 for consumers of electric and natural gas services, and  
33 minimize the impact on the cost of such services to consumers.

34 The general assembly, therefore, finds that the replacement  
35 tax should be imposed on the generation, transmission, and

1 delivery of electricity and natural gas. Statewide generation  
 2 and transmission taxes are necessary to ensure that in the  
 3 event such functions are conducted by stand-alone generation  
 4 and transmission companies, such companies will continue to  
 5 contribute to the tax base. However, imposition of a single  
 6 statewide delivery tax rate would unfairly increase tax costs  
 7 for some taxpayers while reducing such costs for others. Such  
 8 a result would impede a competitive environment and disrupt  
 9 the tax continuity for taxpayers, and has the potential to  
 10 unnecessarily increase costs for consumers of gas and  
 11 electricity. Therefore, to maintain tax continuity and tax  
 12 revenues for local government and to maintain tax continuity  
 13 and negate tax costs as a factor in a competitive environment  
 14 for taxpayers and consumers, the delivery tax rates should be  
 15 fixed by geographic service areas which are designed and  
 16 structured to accomplish these goals.

17 The current property tax valuation process for utility  
 18 companies is complex and time-consuming to administer. The  
 19 replacement tax eases this administrative burden on state  
 20 government.

21 SUBCHAPTER 1

22 INTRODUCTORY PROVISIONS

23 Sec. 2. NEW SECTION. 437A.1 CLASSIFICATION OF CHAPTER.

24 The provisions of this chapter are classified and  
 25 designated as follows:

- 26 Subchapter 1 Introductory Provisions.
- 27 Subchapter 2 Generation, Transmission, and Delivery
- 28 Taxes.
- 29 Subchapter 3 Statewide Property Tax.
- 30 Subchapter 4 General Provisions.

31 Sec. 3. NEW SECTION. 437A.2 PURPOSES.

32 The purposes of this chapter are to replace property taxes  
 33 imposed on electric companies, natural gas companies, electric  
 34 cooperatives, and municipal utilities with a system of  
 35 taxation which will remove tax costs as a factor in a

1 competitive environment by imposing like generation,  
2 transmission, and delivery taxes on similarly situated  
3 competitors who generate, transmit, or deliver electricity or  
4 natural gas in the same competitive service area, to preserve  
5 revenue neutrality and debt capacity for local governments and  
6 taxpayers, to preserve neutrality in the allocation and cost  
7 impact of any replacement tax among and upon consumers of  
8 electricity and natural gas in this state, and to provide a  
9 system of taxation which reduces existing administrative  
10 burdens on state government.

11 Sec. 4. NEW SECTION. 437A.3 DEFINITIONS.

12 As used in this chapter, unless the context otherwise  
13 requires:

14 1. "Assessed value" means the base year assessed value, as  
15 adjusted by section 437A.20, subsection 2. "Base year  
16 assessed value", for a taxpayer other than an electric  
17 company, natural gas company, or electric cooperative, means  
18 the value attributable to property identified in section  
19 427A.1, subsection 1, paragraph "h", certified by the  
20 department of revenue and finance to the county auditors for  
21 the assessment date of January 1, 1997, and the value  
22 attributable to property identified in section 427A.1 and  
23 section 427B.17, subsection 5, as certified by the local  
24 assessors to the county auditors for the assessment date of  
25 January 1, 1997.

26 For taxpayers that are electric companies, natural gas  
27 companies, and electric cooperatives, "base year assessed  
28 value" means the average of these values for the assessment  
29 dates of January 1, 1992, through January 1, 1996. "Base year  
30 assessed value" does not include value attributable to steam-  
31 operating property.

32 2. "Centrally assessed property tax" means property tax  
33 imposed with respect to the value of property determined by  
34 the director pursuant to section 427.1, subsection 2, section  
35 428.29, and chapter 437, Code 1997, and allocated to electric

1 and natural gas service, and property tax imposed with respect  
2 to the value of property determined by the director pursuant  
3 to chapter 437, Code 1997, and allocated to electric and  
4 natural service.

5 3. "Consumer" means an end user of electricity or natural  
6 gas used or consumed within this state. "Consumer" includes  
7 any master-metered facility even though the electricity or  
8 natural gas delivered to such facility may ultimately be used  
9 by another person. A person to whom electricity or natural  
10 gas is delivered by a master-metered facility is not a  
11 consumer. A "master-metered facility" means any multi-  
12 occupancy premises where units are separately rented or owned  
13 and where electricity or natural gas is used in centralized  
14 heating, cooling, water-heating, or ventilation systems, where  
15 individual metering is impractical, where the facility is  
16 designated for elderly or handicapped persons and utility  
17 costs constitute part of the operating cost and are not  
18 apportioned to individual units, or where submetering or  
19 resale of service was permitted prior to 1966.

20 4. "Delivery" means the physical transfer of electricity  
21 or natural gas to a consumer. Physical transfer to a consumer  
22 occurs when transportation of electricity or natural gas ends  
23 and such electricity or natural gas becomes available for use  
24 or consumption by a consumer.

25 5. "Director" means the director of revenue and finance.

26 6. "Electric company" means a person engaged primarily in  
27 the production, delivery, service, or sales of electric energy  
28 whether formed or organized under the laws of this state or  
29 elsewhere. "Electric company" includes a combination natural  
30 gas company and electric company. "Electric company" does not  
31 include an electric cooperative or a municipal utility.

32 7. "Electric competitive service area" means an electric  
33 service area assigned by the utilities board under chapter 476  
34 as of January 1, 1998, including utility property and  
35 facilities described in section 476.23, subsection 3, which

1 were owned and served by the electric company, electric  
2 cooperative, or municipal utility serving such area on January  
3 1, 1998.

4 8. "Electric cooperative" means an electric utility  
5 provider formed or organized as an electric cooperative under  
6 the laws of this state or elsewhere. An electric cooperative  
7 shall also include an incorporated city utility provider.  
8 "Generation and transmission electric cooperative" means an  
9 electric cooperative which owns both transmission lines and  
10 property which is used to generate electricity. "Distribution  
11 electric cooperative" means an electric cooperative other than  
12 a generation and transmission electric cooperative or a  
13 municipal electric cooperative association.

14 9. "Electric power generating plant" means a name plate  
15 rated electric power generating plant, which produces electric  
16 energy from other forms of energy, including all taxable land,  
17 buildings, and equipment used in the production of such  
18 electric energy.

19 10. "Incorporated city utility provider" means a  
20 corporation with assets worth one million dollars or more  
21 which has one or more platted villages located within the  
22 territorial limits of the tract of land which it owns, and  
23 which provides electricity to ten thousand or fewer customers.

24 11. "Lease" means a contract between a lessor and lessee  
25 pursuant to which the lessee obtains a present possessory  
26 interest in tangible property without obtaining legal title in  
27 such property. A contract to transmit or deliver electricity  
28 or natural gas using operating property within this state is  
29 not a lease. "Capital lease" means a lease classified as a  
30 capital lease under generally accepted accounting principles.

31 12. "Local amount" means the first forty-four million four  
32 hundred forty-four thousand four hundred forty-five dollars of  
33 the acquisition cost of any major addition which is an  
34 electric power generating plant and the total acquisition cost  
35 of any other major addition.



1 13. "Local taxing district" means a city, county,  
2 community college, school district, or other taxing district,  
3 located in this state and authorized to certify a levy on  
4 property located within such district for the payment of bonds  
5 and interest or other obligations of such district.

6 14. "Low capacity factor electric power generating plant"  
7 means, for any tax year, an electric power generating plant,  
8 with the exception of an electric power generating plant owned  
9 or leased by an electric company, an electric cooperative, or  
10 a municipal utility, which operated during the preceding  
11 calendar year at a net capacity factor of twenty percent or  
12 less. "Net capacity factor" means net actual generation  
13 during the preceding calendar year divided by the product of  
14 nameplate capacity times the number of hours the plant was in  
15 the active state during the preceding calendar year. Upon  
16 commissioning, a plant is in the active state until it is  
17 decommissioned. "Net actual generation" means net electrical  
18 megawatt hours produced by a plant during the preceding  
19 calendar year.

20 15. "Major addition" means any acquisition on or after  
21 January 1, 1997, by a taxpayer, by transfer of ownership,  
22 self-construction, or capital lease of any interest in any of  
23 the following:

24 a. A building in this state where the acquisition cost of  
25 all interests acquired exceeds ten million dollars.

26 b. An electric power generating plant where the  
27 acquisition cost of all interests acquired exceeds ten million  
28 dollars. For purposes of this paragraph, "electric power  
29 generating plant" means each nameplate rated electric power  
30 generating plant owned solely or jointly by any person or  
31 electric power facility financed under the provisions of  
32 chapter 28F in which electrical energy is produced from other  
33 forms of energy, including all equipment used in the  
34 production of such energy through its step-up transformer.

35 c. Natural gas operating property within a local taxing

1 district where the acquisition cost of all interests acquired  
2 exceeds one million dollars.

3 d. Any operating property in this state by a person not  
4 previously subject to taxation under this chapter.

5 For purposes of this chapter, the acquisition cost of an  
6 asset acquired by capital lease is its capitalized value  
7 determined under generally accepted accounting principles.

8 16. "Municipal electric cooperative association" means an  
9 electric cooperative, the membership of which is composed  
10 entirely of municipal utilities.

11 17. "Municipal utility" means a municipal electric  
12 utility, including a jointly owned or operated municipal  
13 electric utility or a municipal electric utility financed  
14 under chapter 28F, or a municipal natural gas utility.

15 18. "Natural gas company" means a person that owns,  
16 operates, or is engaged primarily in operating or utilizing  
17 pipelines for the purpose of distributing natural gas to  
18 consumers located within this state, excluding a gas  
19 distributing plant or company located entirely within any city  
20 and not a part of a pipeline transportation company. "Natural  
21 gas company" includes a combination natural gas company and  
22 electric company. "Natural gas company" does not include a  
23 municipal utility.

24 19. a. "Natural gas competitive service area" means any  
25 of the fifty-two natural gas competitive service areas  
26 described as follows:

27 (1) Each of the following municipal natural gas  
28 competitive service areas:

29 (a) Taylor county, except for those areas of Taylor county  
30 which are contained within another municipal natural gas  
31 competitive service area as described in this subsection.

32 (b) The city of Brighton in Washington county and the area  
33 within two miles of the city limits plus sections 5, 6, 7, 8,  
34 17, 18, 19, 20, 29, and 30 in Brighton township; sections 19,  
35 30, and 33 in Franklin township; sections 1, 2, 11, 12, 13,

1 14, 23, 24, 25, and 36 in Dutch Creek township; and sections  
2 25, 26, 35, and 36 in Seventy-Six township.

3 (c) Davis county.

4 (d) The city of Brooklyn in Poweshiek county and the area  
5 within two miles of the city limits.

6 (e) The city of Cascade in Dubuque county and the area  
7 within two miles of the city limits.

8 (f) The city of Cedar Falls in Black Hawk county and the  
9 area within one mile of the city limits, not including any  
10 part of the city of Waterloo.

11 (g) The city of Clearfield in Taylor county and the area  
12 within two miles of the city limits and sections 20, 21, 26,  
13 and 27 of Platte township, Grant township in Taylor county,  
14 and Grant township in Ringgold county.

15 (h) The south half of Carroll county and sections 3 and 4  
16 of Orange township in Guthrie county.

17 (i) Adams county, except those areas of Adams county which  
18 are contained within another municipal natural gas competitive  
19 service area as defined in this subsection.

20 (j) The city of Emmetsburg in Palo Alto county and the  
21 area within two miles of the city limits.

22 (k) The city of Everly, in Clay county and the area within  
23 two miles of the city limits.

24 (l) The city of Fairbank and the area within two miles of  
25 the city limits plus the area one-quarter mile on either side  
26 of the county line road, Highway 281, from Fairbank to the  
27 intersection of Outer Road and Tenth Street, proceeding  
28 twenty-eight hundredths of a mile north in Buchanan and  
29 Fayette counties.

30 (m) The city of Gilmore City in Pocahontas and Humboldt  
31 counties and the area within two miles of the city limits.

32 (n) The city of Graettinger in Palo Alto county and the  
33 area within two miles of the city limits.

34 (o) The city of Guthrie Center, in Guthrie county and the  
35 area within one mile of the city limits.

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- 1 (p) The city of Harlan in Shelby county and the area  
2 within two miles of the city limits.
- 3 (q) The city of Hartley in O'Brien county and the area  
4 within one mile of the city limits, except the eastern one-  
5 half of section four in Omega township.
- 6 (r) The city of Hawarden in Sioux county and the area  
7 within two miles of the city limits.
- 8 (s) The city of Lake Park plus Silver Lake township in  
9 Dickinson county.
- 10 (t) Fayette and New Buda townships in Decatur county.
- 11 (u) The city of Lenox in Taylor county including section 1  
12 of Platte township in Taylor county and the townships of Carl,  
13 Grant, Mercer, Colony, Union, and Prescott in Adams county.
- 14 (v) Grand River township in Wayne county.
- 15 (w) New Hope township in Union county and Monroe township  
16 in Madison county.
- 17 (x) Ewoldt and Eden townships in Carroll county and Iowa  
18 township in Crawford county.
- 19 (y) The city of Montezuma in Poweshiek county and the area  
20 within two miles of the city limits plus Jackson township in  
21 Poweshiek county except the city of Barnes City, Pleasant  
22 Grove and Monroe townships in Mahaska county except the city  
23 of Barnes City.
- 24 (z) Morning Sun township in Louisa county.
- 25 (aa) Wells and Washington townships in Appanoose county.
- 26 (ab) The city of Osage in Mitchell county and the area  
27 within two miles of the city limits.
- 28 (ac) The city of Prescott in Adams county and the area  
29 within two miles of the city limits.
- 30 (ad) The city of Preston in Jackson county and the area  
31 within two miles of the city limits.
- 32 (ae) The city of Remsen in Plymouth county and the area  
33 within two miles of the city limits.
- 34 (af) The city of Rock Rapids in Lyon county and the area  
35 within two miles of the city limits.

1 (ag) The city of Rolfe in Pocahontas county and the area  
2 within two miles of the city limits.

3 (ah) The city of Sabula in Jackson county and the area  
4 within two miles of the city limits.

5 (ai) The city of Sac City in Sac county and the area  
6 within two miles of the city limits.

7 (aj) The city of Sanborn in O'Brien county and the area  
8 within two miles of the city limits.

9 (ak) The city of Sioux Center in Sioux county and the area  
10 within two miles of the city limits.

11 (al) The city of Tipton in Cedar county and the area  
12 within two miles of the city limits.

13 (am) The city of Waukee in Dallas county.

14 (an) The city of Wayland plus Jefferson and Trenton  
15 townships in Henry county.

16 (ao) Seventy-Six and Lime Creek townships in Washington  
17 county except for those areas of Seventy-Six township which  
18 are contained within another municipal natural gas competitive  
19 service area as defined in this subsection.

20 (ap) The city of West Bend in Kossuth and Palo Alto  
21 counties and the area within two miles of the city limits.

22 (aq) The city of Whittemore in Kossuth county and the area  
23 within two miles of the city limits.

24 (ar) Scott, Canaan, and Wayne townships in Henry county.

25 (as) The city of Woodbine in Harrison county and the area  
26 within two miles of the city limits.

27 (at) Nishnabotna township in Crawford county.

28 (2) The natural gas competitive service area, excluding  
29 any municipal natural gas competitive service area described  
30 in subparagraph (1) and consisting of Sioux county; Plymouth  
31 county; Woodbury county; Ida county; Harrison county; Shelby  
32 county; Audubon county; Palo Alto county; Humboldt county;  
33 Mahaska county; Scott county; Lyon county except Wheeler,  
34 Dale, Liberal, Grant, Midland, and Elgin townships; O'Brien  
35 county except Union, Dale, Summit, Highland, Franklin, and

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1 Center townships; Cherokee county except Cherokee and Pilot  
2 townships; Monona county except Franklin township and the  
3 south half of Ashton township; Pottawattamie county except  
4 Crescent, Hazel Dell, Lake, Garner, Kane, and Lewis townships;  
5 Mills county except Glenwood and Center townships; Montgomery  
6 county except Douglas, Washington, and East townships; Page  
7 county except Valley, Douglas, Nodaway, Nebraska, Harlan, East  
8 River, Amity, and Buchanan townships; Fremont county except  
9 Green, Scott, Sidney, Benton, Washington, and Madison  
10 townships; Brighton and Pleasant townships in Cass county; Sac  
11 county except Clinton, Wall Lake, Coon Valley, Levey, Viola,  
12 and Sac townships; Newell township in Buena Vista county;  
13 Calhoun county except Reading township; Denmark township in  
14 Emmet county; Kossuth county except Eagle, Grant, Springfield,  
15 Hebron, Swea, Harrison, Ledyard, Lincoln, Seneca, Greenwood,  
16 Ramsey, and German townships; Webster county except Roland,  
17 Clay, Burnside, Yell, Webster, Gowrie, Lost Grove, Dayton, and  
18 Hardin townships; Guthrie county except Grant, Thompson, and  
19 Beaver townships; Union township in Union county; Madison  
20 county except Ohio and New Hope townships; Warren county  
21 except Virginia, Squaw, Liberty, and White Breast townships;  
22 Cedar, Union, Bluff Creek, and Pleasant townships in Monroe  
23 county; Marion county except Lake Prairie, Knoxville, Summit,  
24 and Union townships; Dallas county except Des Moines and Grant  
25 townships; Polk county except sections 4, 5, 6, 7, 8, 9, 16,  
26 17, and 18 in Lincoln township and the city of Grimes, and  
27 sections 1, 2, 3, 10, 11, 12, 13, 14, and 15 in Union  
28 township; Poweshiek, Washington, Mound Prairie, Des Moines,  
29 Elk Creek, and Fairview townships in Jasper county; Wright  
30 county except Belmont and Pleasant townships; Geneseo township  
31 in Cerro Gordo county; Franklin county except Wisner and Scott  
32 townships and the city of Coulter; Butler county except  
33 Bennezette, Coldwater, Dayton, and Fremont townships; Floyd  
34 county except Rock Grove, Rudd, Rockford, Ulster, Scott, and  
35 Union townships; Branford township in Chickasaw county; Bremer

1 county except Frederika, LeRoy, Sumner No. 2, Fremont, Dayton,  
 2 Maxfield, and Franklin townships; Perry, Washington, Westburg,  
 3 and Sumner townships in Buchanan county; Black Hawk county  
 4 except Big Creek township; Fremont township in Benton county;  
 5 Wapello county except Washington township; Benton and Steady  
 6 Run townships in Keokuk county; the city of Barnes City in  
 7 Poweshiek county; Iowa township in Washington county; Johnson  
 8 county except Fremont township; Linn county except Grant  
 9 Spring Grove, Jackson, Boulder, Washington, Monroe township  
 10 west and north of Otter Creek and County Home Road, Otter  
 11 Creek, Maine, Buffalo, Fayette, and Clinton townships;  
 12 Farmington township in Cedar county; Wapsinonoc, Goshen,  
 13 Moscow, Wilton, and Fulton townships in Muscatine county; and  
 14 Lee county except Des Moines, Montrose, Keokuk, and Jackson  
 15 townships.

16 (3) The natural gas competitive service area, excluding  
 17 any municipal natural gas competitive service areas described  
 18 in subparagraph (1) and consisting of that part of Kossuth  
 19 county not described in subparagraph (2); Lincoln and Buffalo  
 20 townships in Winnebago county; Worth county except Silver  
 21 Lake, Hartland, Bristol, Brookfield, Fertile, and Danville  
 22 townships; Cerro Gordo county except Grimes, Pleasant Valley,  
 23 and Dougherty townships; Rock Grove and Rudd townships in  
 24 Floyd county; Eden, Camanche, and Hampshire townships and the  
 25 city of Clinton in Clinton county; and Stacyville and Union  
 26 townships in Mitchell county.

27 (4) The natural gas competitive service area, excluding  
 28 any municipal natural gas service areas described in  
 29 subparagraph (1) and consisting of Franklin township and the  
 30 South Half of Ashton township in Monona county; Crescent,  
 31 Hazel Dell, Lake, Garner, Kane, and Lewis townships in  
 32 Pottawattamie county; Glenwood and Center townships in Mills  
 33 county; Green, Scott, Sidney, Benton, Washington, and Madison  
 34 townships in Fremont county; Cass, Bear Grove, Union, Noble,  
 35 Edna, Victoria, Massena, Lincoln, and Grant townships in Cass

1 county; Glidden township in Carroll county; Summit township in  
 2 Adair county; Grant township in Guthrie county; Crawford  
 3 county except Nishnabotna township; Clinton, Wall Lake, Coon  
 4 Valley, Levey, Viola, and Sac township in Sac county; Reading  
 5 township in Calhoun county; Marshall, Sherman, Roosevelt,  
 6 Dover, Grant, Lincoln, and Cedar townships in Pocahontas  
 7 county; Union, Dale, Summit, Highland, Franklin, and Center  
 8 townships in O'Brien county; the north half of Clay county  
 9 plus Clay township; Dickinson county; Emmet county except  
 10 Denmark, Armstrong Grove, and Iowa Lake townships; Greene  
 11 county except Bristol, Hardin, Jackson, and Grant townships;  
 12 Boone county except Worth, Colfax, Des Moines, Jackson, Dodge,  
 13 and Harrison townships; Des Moines and Grant townships in  
 14 Dallas county; Roland, Clay, Burnside, Yell, Webster, Gowrie,  
 15 Lost Grove, Dayton, and Newark townships in Webster county;  
 16 Clear Lake, Hamilton, Webster, Freedom, Independence, Cass,  
 17 and Fremont townships in Hamilton county; Ell, Madison, and  
 18 Ellington townships in Hancock county; Winnebago county except  
 19 Lincoln and Buffalo townships; Silver Lake, Hartland, Bristol,  
 20 Brookfield, Fertile, and Danville townships in Worth county;  
 21 Etna township in Hardin county; Lafayette township and the  
 22 west one-half of Howard township in Story county; the city of  
 23 Grimes in Polk county; Independence, Malaka, Mariposa, Hickory  
 24 Grove, Rock Creek, Kellogg, Newton, Sherman, Palo Alto, Buena  
 25 Vista, and Richland townships in Jasper county; Palermo,  
 26 Grant, and Fairfield townships in Grundy county; Bennezette,  
 27 Coldwater, Dayton, and Fremont townships in Butler county;  
 28 Rockford, Ulster, Scott, and Union townships in Floyd county;  
 29 St. Ansgar and Mitchell townships in Mitchell county; Howard  
 30 county; Chickasaw county except Branford township; Frederika,  
 31 LeRoy, Sumner No. 2, Fremont, Dayton, Maxfield, and Franklin  
 32 townships in Bremer county; Big Creek township in Black Hawk  
 33 county; Brown township in Linn county; Madison township and  
 34 the east half of Buffalo township in Buchanan county; Fayette  
 35 county except Harlan, Fremont, Oran, and Jefferson townships;



1 Winneshiek county; Alamakee county; Clayton county; Delaware  
2 county except Adams and Hazel Green townships; Dubuque county;  
3 Jones county except Rome, Hale, Oxford, and the east half of  
4 Greenfield townships; and Jackson county.

5 (5) The natural gas competitive service area consisting of  
6 Des Moines, Montrose, Keokuk, and Jackson townships in Lee  
7 county.

8 (6) The natural gas competitive service area consisting of  
9 the city of Allerton and the area within two miles of the city  
10 limits.

11 (7) The natural gas competitive service area consisting of  
12 all of Iowa not contained in any of the other natural gas  
13 competitive service areas described in this paragraph.

14 b. "Township" includes any city or part of a city located  
15 within the exterior boundaries of that township.

16 c. References to city limits contained in this subsection  
17 mean those city limits as they existed on January 1, 1998.

18 20. "Operating property" means all property owned by or  
19 leased to an electric company, electric cooperative, municipal  
20 utility, or natural gas company, not otherwise taxed  
21 separately, which is necessary to and without which the  
22 company could not perform the activities of an electric  
23 company, electric cooperative, municipal utility, or natural  
24 gas company.

25 21. "Pole miles" means miles measured along the line of  
26 poles, structures, or towers carrying electric conductors  
27 regardless of the number of conductors or circuits carried,  
28 and miles of conduit bank, regardless of number of conduits or  
29 ducts, of all sizes and types, including manholes and  
30 handholes. "Conduit bank" means a length of one or more  
31 underground conduits or ducts, whether or not enclosed in  
32 concrete, designed to contain underground cables, including a  
33 gallery or cable tunnel for power cables.

34 22. "Purchasing member" means a municipal utility which  
35 purchases electricity from a municipal electric cooperative

1 association of which it is a member.

2 23. "Replacement tax" means the excise tax imposed on the  
3 generation, transmission, delivery, consumption, or use of  
4 electricity or natural gas under sections 437A.4, 437A.5,  
5 437A.6, or 437A.7.

6 24. "Statewide amount" means the acquisition cost of any  
7 major addition which is not a local amount.

8 25. "Taxpayer" means an electric company, natural gas  
9 company, electric cooperative, municipal utility, or other  
10 person subject to the replacement tax imposed under section  
11 437A.4, 437A.5, 437A.6, or 437A.7.

12 26. "Tax year" means a calendar year beginning January 1  
13 and ending December 31.

14 27. "Transfer replacement tax" means the tax imposed in a  
15 competitive service area of a municipal utility which replaces  
16 transfers made by the municipal utility in accordance with  
17 section 384.89.

18 28. "Transmission line" means a line, wire, or cable which  
19 is capable of operating at an electric voltage of at least  
20 thirty-four and one-half kilovolts.

21 29. "Utilities board" means the utilities board created in  
22 section 474.1.

23 SUBCHAPTER 2

24 GENERATION, TRANSMISSION, AND DELIVERY TAXES

25 Sec. 5. NEW SECTION. 437A.4 REPLACEMENT TAX IMPOSED ON  
26 DELIVERY OF ELECTRICITY.

27 1. A replacement delivery tax is imposed on every person  
28 who makes a delivery of electricity to a consumer within this  
29 state. The replacement delivery tax imposed by this section  
30 is equal to the sum of the following:

31 a. The number of kilowatt-hours of electricity delivered  
32 to consumers by the taxpayer within each electric competitive  
33 service area during the tax year multiplied by the electric  
34 replacement delivery tax rate in effect for each such electric  
35 competitive service area.

1 b. Where applicable, and in addition to the tax imposed by  
2 paragraph "a", the number of kilowatt-hours of electricity  
3 delivered to consumers by the taxpayer within each electric  
4 competitive service area during the tax year multiplied by the  
5 electric transfer replacement tax rate for each such electric  
6 competitive service area.

7 2. If electricity is consumed in this state, whether such  
8 electricity is purchased, transferred, or self-generated, and  
9 the delivery, purchase, transference, or self-generation of  
10 such electricity is not subject to the tax imposed under  
11 subsection 1, a tax is imposed on the consumer at the rates  
12 prescribed under subsection 1.

13 3. Electric replacement delivery tax rates shall be  
14 calculated by the director for each electric competitive  
15 service area as follows:

16 a. The director shall determine the average centrally  
17 assessed property tax liability allocated to electric service  
18 of each taxpayer, other than a municipal utility, principally  
19 serving an electric competitive service area and of each  
20 generation and transmission electric cooperative for the  
21 assessment years 1992 through 1996 based on property tax  
22 payments made. In the case of a municipal utility, the  
23 average centrally assessed property tax liability allocated to  
24 electric service is the centrally assessed property tax  
25 liability of such municipal utility allocated to electric  
26 service for the 1996 assessment year based on property tax  
27 payments made.

28 b. The director shall determine, for each taxpayer, the  
29 number of kilowatt-hours of electricity generated which would  
30 have been subject to taxation under section 437A.6, the number  
31 of pole miles which would have been subject to taxation under  
32 section 437A.7, and the number of kilowatt-hours of  
33 electricity delivered to consumers which would have been  
34 subject to taxation under this section in calendar year 1997,  
35 had such sections been in effect for calendar year 1997.

1 c. The director shall determine the electric generation,  
2 transmission, and delivery tax components of the average  
3 centrally assessed property tax liability determined in  
4 paragraph "a" for each electric competitive service area as  
5 follows:

6 (1) The electric generation tax component for an electric  
7 competitive service area shall be computed by multiplying the  
8 tax rate set forth in section 437A.6 by the number of  
9 kilowatt-hours of electricity generated by the taxpayer  
10 principally serving such electric competitive service area  
11 which would have been subject to taxation under section 437A.6  
12 in calendar year 1997, had that section been in effect for  
13 calendar year 1997.

14 (2) The electric transmission tax component for an  
15 electric competitive service area shall be computed by  
16 multiplying the tax rates set forth in section 437A.7 by the  
17 number of pole miles for each line voltage owned or leased by  
18 the taxpayer principally serving such electric competitive  
19 service area which would have been subject to taxation under  
20 section 437A.7 on December 31, 1997, had that section been in  
21 effect for calendar year 1997.

22 (3) The electric delivery tax component for an electric  
23 competitive service area shall be the average centrally  
24 assessed property tax liability allocated to electric service  
25 of the taxpayer principally serving such electric competitive  
26 service area less the electric generation and transmission tax  
27 components computed for such electric competitive service  
28 area.

29 (4) The electric delivery tax component for each electric  
30 competitive service area shall be adjusted, as necessary, to  
31 assign the excess property tax liability of each generation  
32 and transmission electric cooperative to the electric  
33 competitive service areas principally served on January 1,  
34 1998, by its distribution electric cooperative members and by  
35 those municipal utilities which were purchasing members of a

1 municipal electric cooperative association that is a member of  
 2 the generation and transmission electric cooperative. Such  
 3 assignment of excess property tax liability of each such  
 4 generation and transmission electric cooperative shall be made  
 5 in proportion to the appropriate wholesale rate charges in  
 6 calendar year 1997 to its distribution electric cooperative  
 7 members and municipal electric cooperative association members  
 8 which purchased electricity from the generation and  
 9 transmission electric cooperative. Any amount assignable to a  
 10 municipal electric cooperative association shall be reassigned  
 11 to the electric competitive service areas served by such  
 12 association's purchasing municipal utility members and shall  
 13 be allocated among them in proportion to the appropriate  
 14 wholesale rate charges in calendar year 1997 by such municipal  
 15 electric cooperative association to its purchasing municipal  
 16 utility members. For purposes of this subsection, "excess  
 17 property tax liability" means the amount by which the average  
 18 centrally assessed property tax liability for the assessment  
 19 years 1992 through 1996 of a generation and transmission  
 20 electric cooperative exceeds the tentative generation and  
 21 transmission taxes which would have been imposed on such  
 22 generation and transmission electric cooperative under  
 23 sections 437A.6 and 437A.7 for calendar year 1997, had such  
 24 taxes been in effect for calendar year 1997. An electric  
 25 cooperative described in section 437A.7, subsection 2,  
 26 paragraph "c", is deemed not to have any excess property tax  
 27 liability.

28 d. The director shall determine an electric delivery tax  
 29 rate for each electric competitive service area by dividing  
 30 the electric delivery tax component for the electric  
 31 competitive service area, as adjusted by paragraph "c",  
 32 subparagraph (4), by the number of kilowatt-hours delivered by  
 33 the taxpayer principally serving the electric competitive  
 34 service area to consumers in calendar year 1997, which would  
 35 have been subject to taxation under this section if this

1 section had been in effect for calendar year 1997.

2 4. Municipal electric transfer replacement tax rates shall  
3 be calculated annually by the city council of each city  
4 located within an electric competitive service area served by  
5 a municipal utility as of January 1, 1998, by dividing the  
6 average annual dollar amount of electric related transfers  
7 made pursuant to section 384.89 by the municipal utility  
8 serving the electric competitive service area, other than  
9 those transfers declared exempt from the transfer replacement  
10 tax by the city council, plus the municipal transfer  
11 replacement tax received by the municipality, if any, during  
12 the five immediately preceding calendar years by the number of  
13 kilowatt-hours of electricity delivered to consumers in the  
14 electric competitive service area during the immediately  
15 preceding calendar year which were subject to taxation under  
16 this section or which would have been subject to taxation  
17 under this section had it been in effect for such calendar  
18 year. The city council on its own motion, or in the case of a  
19 municipal utility governed by a board of trustees under  
20 chapter 388 upon a resolution of the board of trustees  
21 requesting such action, may declare any transfer or part of  
22 such transfer to be exempt from the transfer replacement tax  
23 under this section. Such rates shall be calculated and  
24 reported to the director on or before August 31 of each tax  
25 year.

26 5. A municipal utility taxpayer is entitled to a credit  
27 against the municipal electric transfer replacement tax equal  
28 to the average amount of electric-related transfers made by  
29 such municipal utility taxpayer under section 384.89, other  
30 than those transfers declared exempt from transfer replacement  
31 tax by the city council, during the preceding five calendar  
32 years.

33 6. The following are not subject to the replacement  
34 delivery tax imposed by subsections 1 and 2:

35 a. Delivery of electricity generated by a low capacity

1 factor electric power generating plant.

2 b. Delivery of electricity to a city from such city's  
3 municipal utility, provided such electricity is used by the  
4 city for the public purposes of the city.

5 c. Electricity consumed by a state university or  
6 university of science and technology, provided such  
7 electricity was generated by property described in section  
8 427.1, subsection 1.

9 7. Notwithstanding subsection 1, the electric delivery tax  
10 rate applied to kilowatt-hours of electricity delivered by a  
11 taxpayer to utility property and facilities which are placed  
12 in service on or after January 1, 1998, and are owned by or  
13 leased to and initially served by such taxpayer shall be the  
14 electric delivery tax rate in effect for the electric  
15 competitive service area principally served by such utility  
16 property and facilities even though such utility property and  
17 facilities may be physically located in another electric  
18 competitive service area.

19 8. If for any tax year after calendar year 1997, the total  
20 taxable kilowatt-hours of electricity required to be reported  
21 by taxpayers pursuant to section 437A.8, subsection 1,  
22 paragraphs "a" and "b", with respect to any electric  
23 competitive service area, increases or decreases by more than  
24 the threshold percentage from the average of the base year  
25 amounts for that electric competitive service area during the  
26 immediately preceding five calendar years, the tax rate  
27 imposed under subsection 1, paragraph "a", and subsection 2,  
28 for that tax year shall be recalculated by the director for  
29 that electric competitive service area so that the total of  
30 the replacement electric delivery taxes required to be  
31 reported pursuant to section 437A.8, subsection 1, paragraph  
32 "e", for that electric competitive service area with respect  
33 to the tax imposed under subsection 1, paragraph "a", and  
34 subsection 2, shall be as follows:

35 a. If the number of kilowatt-hours of electricity required

1 to be reported increased by more than the threshold  
2 percentage, one hundred two percent of such taxes required to  
3 be reported by taxpayers for that electric competitive service  
4 area for the immediately preceding tax year.

5 b. If the number of kilowatt-hours of electricity required  
6 to be reported decreased by more than the threshold  
7 percentage, ninety-eight percent of such taxes required to be  
8 reported by taxpayers for that electric competitive service  
9 area for the immediately preceding tax year.

10 For purposes of paragraphs "a" and "b", in computing the  
11 tax rate under subsection 1, paragraph "a", and subsection 2,  
12 for tax year 1998, the director shall use the electric  
13 delivery tax component computed for the electric competitive  
14 service area pursuant to subsection 3, paragraph "c", in lieu  
15 of the taxes required to be reported for that electric  
16 competitive service area for the immediately preceding tax  
17 year.

18 The threshold percentage shall be determined annually and  
19 shall be eight percent for any electric competitive service  
20 area in which the average of the base year amounts for the  
21 preceding five calendar years does not exceed three billion  
22 kilowatt-hours, and ten percent for all other electric  
23 competitive service areas.

24 Any such recalculation of an electric delivery tax rate, if  
25 required, shall be made and the new rate shall be published in  
26 the Iowa administrative bulletin by the director by no later  
27 than May 31 following the tax year. The director shall adjust  
28 the tentative replacement tax imposed by subsection 1,  
29 paragraph "a", and subsection 2 required to be shown on any  
30 affected taxpayer's return pursuant to section 437A.8,  
31 subsection 1, paragraph "e", to reflect the adjusted delivery  
32 tax rate for the tax year, and report such adjustment to the  
33 affected taxpayer on or before June 30 following the tax year.  
34 The new electric delivery tax rate shall apply prospectively,  
35 until such time as further adjustment is required.



1 For purposes of this section, "base year amount" means for  
 2 calendar years prior to tax year 1998, the sum of the  
 3 kilowatt-hours of electricity delivered to consumers within an  
 4 electric competitive service area by the taxpayer principally  
 5 serving such electric competitive service area which would  
 6 have been subject to taxation under this section had this  
 7 section been in effect for those years; and for tax years  
 8 after calendar year 1997, the taxable kilowatt-hours of  
 9 electricity required to be reported by taxpayers pursuant to  
 10 section 437A.8, subsection 1, paragraphs "a" and "b", with  
 11 respect to any electric competitive service area.

12 9. a. After calendar year 1997, if a municipal electric  
 13 cooperative association ceases to purchase electricity from  
 14 the generation and transmission electric cooperative from  
 15 which it purchased electricity in 1997, and for a period of  
 16 ninety days after such purchases cease, no municipal utility  
 17 member of such association purchases electricity from such  
 18 generation and transmission electric cooperative, the excess  
 19 property tax liability assigned pursuant to subsection 3,  
 20 paragraph "c", subparagraph (4), to the electric competitive  
 21 service areas principally served by the municipal utility  
 22 members on January 1, 1998, shall be removed from the electric  
 23 delivery tax component of those electric competitive service  
 24 areas and the electric delivery tax rate for those electric  
 25 competitive service areas shall be recalculated to reflect  
 26 that change.

27 b. After calendar year 1997, if a municipal utility ceases  
 28 to be a purchasing member of a municipal electric cooperative  
 29 association which purchased electricity in calendar year 1997  
 30 from a generation and transmission electric cooperative, and  
 31 for a period of ninety days after the municipal utility ceases  
 32 to be a purchasing member of such association such municipal  
 33 utility does not purchase electricity from such generation and  
 34 transmission electric cooperative, the excess property tax  
 35 liability assigned pursuant to subsection 3, paragraph "c",

1 subparagraph (4), to the electric competitive service area  
2 principally served by the municipal utility on January 1,  
3 1998, shall be removed from the electric delivery tax  
4 component of those electric competitive service areas and the  
5 electric delivery tax rate for those electric competitive  
6 service areas shall be recalculated to reflect that change.

7 c. If a recalculation has previously been made by the  
8 director pursuant to subsection 8 for an electric competitive  
9 service area described in this subsection, the recalculation  
10 required by this subsection shall be made by the director by  
11 modifying the most recent recalculation under subsection 8 to  
12 eliminate the excess property tax liability originally  
13 allocated to such electric competitive service area under  
14 subsection 3, paragraph "c", subparagraph (4).

15 d. Any recalculation required by this subsection shall be  
16 made and the new rate shall be published in the Iowa  
17 administrative bulletin by the director by May 31 of the  
18 calendar year during which the events described in paragraphs  
19 "a" and "b" are reported as provided in section 437A.8,  
20 subsection 1, paragraph "f". The new electric delivery tax  
21 rate shall be effective January 1 of the tax year in which it  
22 is published and shall apply prospectively, until such time as  
23 further adjustment is required.

24 10. The electric delivery tax rate in effect for each  
25 electric competitive service area shall be published by the  
26 director in the Iowa administrative bulletin on or before  
27 November 30, 1998, and annually after that date, during the  
28 last quarter of the tax year.

29 Sec. 6. NEW SECTION. 437A.5 REPLACEMENT TAX IMPOSED ON  
30 DELIVERY OF NATURAL GAS.

31 1. A replacement delivery tax is imposed on every person  
32 who makes a delivery of natural gas to a consumer within this  
33 state. The replacement delivery tax imposed by this section  
34 shall be equal to the sum of the following:

35 a. The number of therms of natural gas delivered to

1 consumers by the taxpayer within each natural gas competitive  
2 service area during the tax year multiplied by the natural gas  
3 delivery tax rate in effect for each such natural gas  
4 competitive service area.

5 b. Where applicable, and in addition to the tax imposed by  
6 paragraph "a", the number of therms of natural gas delivered  
7 to consumers by the taxpayer within each natural gas  
8 competitive service area during the tax year multiplied by the  
9 municipal natural gas transfer replacement tax rate for each  
10 such natural gas competitive service area.

11 2. If natural gas is consumed in this state, whether such  
12 natural gas is purchased or transferred, and the delivery,  
13 purchase, or transference of such natural gas is not subject  
14 to the tax imposed under subsection 1, a tax is imposed on the  
15 consumer at the rates prescribed under subsection 1.

16 3. Natural gas delivery tax rates shall be calculated by  
17 the director for each natural gas competitive service area as  
18 follows:

19 a. The director shall determine the average centrally  
20 assessed property tax liability allocated to natural gas  
21 service of each taxpayer, other than a municipal utility,  
22 principally serving a natural gas competitive service area for  
23 the assessment years 1992 through 1996 based on property tax  
24 payments made. In the case of a municipal utility, the  
25 average centrally assessed property tax liability allocated to  
26 natural gas service is the centrally assessed property tax  
27 liability of such municipal utility allocated to natural gas  
28 service for the 1996 assessment year based on property tax  
29 payments made. For purposes of this subsection, taxpayer does  
30 not include a pipeline company defined in section 479A.2.

31 b. The director shall determine for each taxpayer the  
32 number of therms of natural gas delivered to consumers which  
33 would have been subject to taxation under this section in  
34 calendar year 1997 had this section been in effect for  
35 calendar year 1997.

1 c. The director shall determine a natural gas delivery tax  
2 rate for each natural gas competitive service area by dividing  
3 the average centrally assessed property tax liability  
4 allocated to natural gas service of the taxpayer principally  
5 serving the natural gas competitive service area by the number  
6 of therms of natural gas delivered by such taxpayer to  
7 consumers in calendar year 1997 which would have been subject  
8 to taxation under this section had such section been in effect  
9 for calendar year 1997.

10 4. Municipal natural gas transfer replacement tax rates  
11 shall be calculated annually by the city council of each city  
12 located within a natural gas competitive service area served  
13 by a municipal utility as of January 1, 1998, by dividing the  
14 average annual dollar amount of natural gas related transfers  
15 made pursuant to section 384.89 by the municipal utility  
16 serving the natural gas competitive service area, other than  
17 those transfers declared exempt from the transfer replacement  
18 tax by the city council, plus the municipal transfer  
19 replacement tax received by the municipality, if any, during  
20 the five immediately preceding calendar years, by the number  
21 of therms of natural gas delivered to consumers in the natural  
22 gas competitive service area during the immediately preceding  
23 calendar year which were subject to taxation under this  
24 section or which would have been subject to taxation under  
25 this section had it been in effect for such calendar year.  
26 The city council on its own motion, or in the case of a  
27 municipal utility governed by a board of trustees under  
28 chapter 388 upon a resolution of the board of trustees  
29 requesting such action, may declare any transfer or part of  
30 such transfer to be exempt from the transfer replacement tax  
31 under this section. Such rates shall be calculated and  
32 reported to the director on or before August 31 of each tax  
33 year.

34 5. A municipal utility taxpayer is entitled to a credit  
35 against the municipal natural gas transfer replacement tax

1 equal to the average amount of natural gas related transfers  
2 made by such municipal utility taxpayer under section 384.89,  
3 other than those transfers declared exempt from transfer  
4 replacement tax by the city council, during the preceding five  
5 calendar years.

6 6. Notwithstanding subsection 1, the natural gas delivery  
7 tax rate applied to therms of natural gas delivered by a  
8 taxpayer to utility property and facilities which are placed  
9 in service on or after January 1, 1998, and which are owned by  
10 or leased to and initially served by such taxpayer shall be  
11 the natural gas delivery tax rate in effect for the natural  
12 gas competitive service area principally served by such  
13 utility property and facilities even though such utility  
14 property and facilities may be physically located in another  
15 natural gas competitive service area.

16 7. Delivery of natural gas to a city from such city's  
17 municipal utility is not subject to the replacement delivery  
18 tax imposed under subsection 1, paragraph "a", and subsection  
19 2, provided such natural gas is used by the city for the  
20 public purposes of the city.

21 Section 437A.5, subsection 2, does not apply to natural gas  
22 consumed by a person, other than an electric company, natural  
23 gas company, electric cooperative, or municipal utility,  
24 acquired by means of facilities owned by or leased to such  
25 person on January 1, 1998, which were physically attached to  
26 pipelines that are not permitted pursuant to chapter 479 and  
27 used by such person for the purpose of bypassing the local  
28 natural gas company or municipal utility.

29 8. If, for any tax year after calendar year 1997, the  
30 total taxable therms of natural gas required to be reported by  
31 taxpayers pursuant to section 437A.8, subsection 1, paragraphs  
32 "a" and "b", with respect to any natural gas competitive  
33 service area increases or decreases by more than the threshold  
34 percentage from the average of the base year amounts for that  
35 natural gas competitive service area during the immediately

1 preceding five calendar years, the tax rate imposed under  
2 subsection 1, paragraph "a", and subsection 2 for that tax  
3 year shall be recalculated by the director for that natural  
4 gas competitive service area so that the total of the  
5 replacement natural gas delivery taxes required to be reported  
6 pursuant to section 437A.8, subsection 1, paragraph "e", for  
7 that natural gas competitive service area with respect to the  
8 tax imposed under subsection 1, paragraph "a", and subsection  
9 2 shall be as follows:

10 a. If the number of therms of natural gas required to be  
11 reported increased by more than the threshold percentage, one  
12 hundred two percent of such taxes required to be reported by  
13 taxpayers for that natural gas competitive service area for  
14 the immediately preceding tax year.

15 b. If the number of therms of natural gas required to be  
16 reported decreased by more than the threshold percentage,  
17 ninety-eight percent of such taxes required to be reported by  
18 taxpayers for that natural gas competitive service area for  
19 the immediately preceding tax year.

20 c. For purposes of paragraphs "a" and "b", in computing  
21 the tax rate under subsection 1, paragraph "a", and subsection  
22 2 for calendar year 1998, the director shall use the average  
23 centrally assessed property tax liability allocated to natural  
24 gas service computed for the natural gas competitive service  
25 area pursuant to subsection 3, paragraph "a", in lieu of the  
26 taxes required to be reported for that natural gas competitive  
27 service area for the immediately preceding tax year.

28 The threshold percentage shall be determined annually and  
29 shall be eight percent for any natural gas competitive service  
30 area in which the average of the base year amounts for the  
31 preceding five calendar years does not exceed two hundred  
32 fifty million therms, and ten percent for all other natural  
33 gas competitive service areas.

34 Recalculation of a natural gas delivery tax rate, if  
35 required, shall be made and the new rate published in the Iowa

1 administrative bulletin by the director by no later than May  
 2 31 following the tax year. The director shall adjust the  
 3 tentative replacement tax imposed by subsection 1, paragraph  
 4 "a", and subsection 2 required to be shown on any affected  
 5 taxpayer's return pursuant to section 437A.8, subsection 1,  
 6 paragraph "e", to reflect the adjusted delivery tax rate for  
 7 the tax year, and report such adjustment to the affected  
 8 taxpayer on or before June 30 following the tax year. The new  
 9 natural gas delivery tax rate shall apply prospectively, until  
 10 such time as further adjustment is required.

11 For purposes of this subsection, "base year amount" means  
 12 for calendar years prior to tax year 1998, the sum of the  
 13 therms of natural gas delivered to consumers within a natural  
 14 gas competitive service area by the taxpayer principally  
 15 serving such natural gas competitive service area which would  
 16 have been subject to taxation under this section had this  
 17 section been in effect for those years; and for tax years  
 18 after calendar year 1997, the taxable therms of natural gas  
 19 required to be reported by taxpayers pursuant to section  
 20 437A.8, subsection 1, paragraphs "a" and "b", with respect to  
 21 any natural gas competitive service area.

22 9. The natural gas delivery tax rate in effect for each  
 23 natural gas competitive service area shall be published by the  
 24 director in the Iowa administrative bulletin on or before  
 25 November 30, 1998, and annually after that date, during the  
 26 last quarter of the tax year.

27 **Sec. 7. NEW SECTION. 437A.6 REPLACEMENT TAX IMPOSED ON**  
 28 **ELECTRIC GENERATION.**

29 1. A replacement generation tax of six hundredths of a  
 30 cent per kilowatt-hour of electricity generated within this  
 31 state during the tax year is imposed on every person  
 32 generating electricity, except electricity generated by the  
 33 following:

- 34 a. A low capacity factor electric power generating plant.
- 35 b. Facilities owned by or leased to a municipal utility

1 when devoted to public use and not held for pecuniary profit,  
2 except facilities of a municipally owned electric utility held  
3 under joint ownership or lease and facilities of an electric  
4 power facility financed under chapter 28F.

5 c. Wind energy conversion property subject to section  
6 427B.26.

7 d. Methane gas conversion property subject to section  
8 427.1, subsection 29.

9 e. Facilities owned by or leased to a state university or  
10 university of science and technology, to the extent  
11 electricity generated by such facilities is consumed  
12 exclusively by such state university or university of science  
13 and technology.

14 2. For purposes of this section, if a generation facility  
15 is jointly owned or leased, the taxpayer shall compute the  
16 number of kilowatt-hours of electricity subject to the  
17 replacement generation tax by multiplying the taxpayer's  
18 percentage interest in the jointly held generation facility by  
19 the number of kilowatt-hours of electricity generated.

20 Sec. 8. NEW SECTION. 437A.7 REPLACEMENT TAX IMPOSED ON  
21 ELECTRIC TRANSMISSION.

22 1. A replacement transmission tax is imposed on every  
23 person owning or leasing transmission lines within this state  
24 and shall be equal to the sum of all of the following:

25 a. Five hundred fifty dollars per pole mile of  
26 transmission line owned or leased by the taxpayer not  
27 exceeding one hundred kilovolts.

28 b. Three thousand dollars per pole mile of transmission  
29 line owned or leased by the taxpayer greater than one hundred  
30 kilovolts but not exceeding one hundred fifty kilovolts.

31 c. Seven hundred dollars per pole mile of transmission  
32 line owned or leased by the taxpayer greater than one hundred  
33 fifty kilovolts but not exceeding three hundred kilovolts.

34 d. Seven thousand dollars per pole mile of transmission  
35 line owned or leased by the taxpayer greater than three



1 hundred kilovolts.

2 The replacement transmission tax shall be calculated on the  
3 basis of pole miles of transmission line owned or leased by  
4 the taxpayer on the last day of the tax year.

5 2. The following shall not be subject to the replacement  
6 transmission tax:

7 a. Transmission lines owned by or leased to a municipal  
8 utility when devoted to public use and not for pecuniary  
9 profit, except transmission lines of a municipally owned  
10 electric utility held under joint ownership and transmission  
11 lines of an electric power facility financed under chapter  
12 28F.

13 b. Transmission lines owned by or leased to a lessor when  
14 the lessee or sublessee of such transmission lines is subject  
15 to the replacement transmission tax.

16 c. Any electric cooperative which owns, leases, or owns  
17 and leases in total more than fifty pole miles and less than  
18 seven hundred fifty pole miles of transmission lines in this  
19 state. Chapter 437 shall apply to such electric cooperatives.

20 d. Transmission lines owned by or leased to a state  
21 university or university of science and technology, provided  
22 such transmission lines are used exclusively for the  
23 transmission of electricity consumed by such state university  
24 or university of science and technology.

25 e. Transmission lines owned by or leased to a person,  
26 other than a public utility, for which a franchise is not  
27 required under chapter 478.

28 3. For purposes of this section, if a transmission line is  
29 jointly owned or leased, the taxpayer shall compute the number  
30 of pole miles subject to the replacement transmission tax by  
31 multiplying the taxpayer's percentage interest in the jointly  
32 held transmission lines by the number of pole miles of such  
33 lines.

34 Sec. 9. NEW SECTION. 437A.8 RETURN AND PAYMENT  
35 REQUIREMENTS -- RATE ADJUSTMENTS.

1 1. Each taxpayer, on or before February 28 following a tax  
2 year, shall file with the director a return including, but not  
3 limited to, the following information:

4 a. The total taxable kilowatt-hours of electricity  
5 delivered by the taxpayer to consumers within each electric  
6 competitive service area during the tax year, and the total  
7 taxable therms of natural gas delivered by the taxpayer to  
8 consumers within each natural gas competitive service area  
9 during the tax year.

10 b. The total kilowatt-hours of electricity consumed by the  
11 taxpayer within each electric competitive service area during  
12 the tax year subject to tax under section 437A.4, subsection  
13 2, and the total therms of natural gas consumed by the  
14 taxpayer within each natural gas competitive service area  
15 during the tax year subject to tax under section 437A.5,  
16 subsection 2.

17 c. The total taxable kilowatt-hours of electricity  
18 generated by the taxpayer in Iowa during the tax year.

19 d. The total taxable pole miles of electric transmission  
20 lines in Iowa, by kilovolt, owned or leased by the taxpayer on  
21 the last day of the tax year.

22 e. The tentative replacement taxes imposed by section  
23 437A.4, subsection 1, paragraph "a", section 437A.4,  
24 subsection 2, section 437A.5, subsection 1, paragraph "a",  
25 section 437A.5, subsection 2, and sections 437A.6 and 437A.7,  
26 due for the tax year.

27 f. For purposes of a municipal utility which is a member  
28 of a municipal electric cooperative association, the  
29 occurrence during the preceding calendar year of an event  
30 described in section 437A.4, subsection 9, paragraph "a" or  
31 "b".

32 2. Each taxpayer subject to a municipal transfer  
33 replacement tax, on or before February 28 following a tax  
34 year, shall file with the chief financial officer of each city  
35 located within an electric or natural gas competitive service

1 area served by a municipal utility as of January 1, 1998, a  
2 return including, but not limited to, the following  
3 information:

4 a. The total taxable kilowatt-hours of electricity  
5 delivered by the taxpayer within each electric competitive  
6 service area described in section 437A.4, subsection 4, during  
7 the tax year and the total taxable therms of natural gas  
8 delivered by the taxpayer within each natural gas competitive  
9 service area described in section 437A.5, subsection 4, during  
10 the tax year.

11 b. For a municipal utility taxpayer, the total transfers  
12 made by the taxpayer under section 384.89 within each  
13 competitive service area during the preceding calendar year,  
14 allocated between electric-related transfers and natural gas-  
15 related transfers and total credits described in sections  
16 437A.4, subsection 5, and 437A.5, subsection 5.

17 c. The transfer replacement taxes imposed by sections  
18 437A.4, subsection 1, paragraph "b", and 437A.5, subsection 1,  
19 paragraph "b", due for the tax year.

20 3. A return shall be signed by an officer, or other person  
21 duly authorized by the taxpayer, and must be certified as  
22 correct and in accordance with forms and rules prescribed by  
23 the director in the case of a return filed pursuant to  
24 subsection 1, and in accordance with forms and rules  
25 prescribed by the chief financial officer of the city in the  
26 case of a return filed pursuant to subsection 2.

27 4. At the time of filing the return required by subsection  
28 1 with the director, the taxpayer shall calculate the  
29 tentative replacement tax due for the tax year. The director  
30 shall compute any adjustments to the replacement tax required  
31 by subsections 7 and 8 and by section 437A.4, subsection 8,  
32 and section 437A.5, subsection 8, and notify the taxpayer of  
33 any such adjustments in accordance with the requirements of  
34 such provisions. The director and the department of  
35 management shall compute the allocation of replacement taxes

1 among local taxing districts and report such allocations to  
2 county treasurers pursuant to section 437A.15. Based on such  
3 allocations, the treasurer of each county shall notify each  
4 taxpayer on or before August 31 following a tax year of its  
5 replacement tax obligation to the county treasurer. On or  
6 before September 30, 1999, and on or before September 30 of  
7 each subsequent year, the taxpayer shall remit to the county  
8 treasurer of each county to which such replacement tax is  
9 allocated pursuant to section 437A.15, one-half of the  
10 replacement tax so allocated, and on or before the succeeding  
11 March 31, the taxpayer shall remit to the county treasurers  
12 the remaining replacement tax so allocated. If notification  
13 of a taxpayer's replacement tax obligation is not mailed by a  
14 county treasurer on or before August 31 following a tax year,  
15 such taxpayer shall have thirty days from the date the  
16 notification is mailed to remit one-half of the replacement  
17 tax otherwise required by this subsection to be remitted to  
18 such county treasurer on or before September 30. If a  
19 taxpayer fails to timely remit replacement taxes as provided  
20 in this subsection, the county treasurer of each affected  
21 county shall notify the director of such failure.

22 5. At the time of filing the return required by subsection  
23 2, the taxpayer shall calculate the municipal transfer  
24 replacement tax due for the tax year. Municipal transfer  
25 replacement taxes shall be paid to the chief financial officer  
26 of the city to which the taxes are allocated at such time and  
27 place as directed by the city council.

28 6. Notwithstanding subsections 1 through 5, a taxpayer  
29 shall not be required to file a return otherwise required by  
30 this section or remit any replacement tax for any tax year in  
31 which the taxpayer's replacement tax liability before credits  
32 is three hundred dollars or less.

33 7. Following the determination of electric and natural gas  
34 delivery tax rates by the director pursuant to section 437A.4,  
35 subsection 3, and section 437A.5, subsection 3, if an

1 adjustment resulting from a taxpayer appeal is made to taxes  
2 levied and paid by a taxpayer with respect to any of the  
3 assessment years 1992 through 1996 used in determining such  
4 rates, the director shall recalculate the delivery tax rate  
5 for any affected electric or natural gas competitive service  
6 area to reflect the impact of such adjustment as if such  
7 adjustment had been reflected in the initial determination of  
8 average centrally assessed property tax liability allocated to  
9 electric or natural gas service pursuant to section 437A.4,  
10 subsection 3, paragraph "a", and section 437A.5, subsection 3,  
11 paragraph "a". Rate recalculations shall be made and  
12 published in the Iowa administrative bulletin by the director  
13 on or before March 31 following the calendar year in which a  
14 final determination of the adjustment is made. Taxpayers  
15 shall report to the director any increase or decrease in the  
16 tentative replacement tax required to be shown to be due  
17 pursuant to subsection 1, paragraph "e", for any tax year with  
18 the return for the year in which the recalculated tax rates  
19 which gave rise to the adjustment are published in the Iowa  
20 administrative bulletin. The director and the department of  
21 management shall redetermine the allocation of replacement  
22 taxes pursuant to section 437A.15 for each affected tax year.  
23 If a taxpayer has overpaid replacement taxes, the overpayment  
24 shall be reported by the director to such taxpayer and to the  
25 appropriate county treasurers and shall be a credit against  
26 the replacement taxes owed by such taxpayer for the year in  
27 which the recalculated rates which gave rise to the  
28 overpayment are published in the Iowa administrative bulletin.  
29 If a taxpayer has overpaid centrally assessed property taxes  
30 for assessment years prior to tax year 1998, such overpayment  
31 shall be a credit against replacement taxes owed by such  
32 taxpayer for the year in which the overpayment is determined.  
33 Unused credits may be carried forward and used to reduce  
34 future replacement tax liabilities until exhausted.

35 8. If, following the determination of electric delivery

1 tax rates by the director pursuant to section 437A.4,  
2 subsection 3, an adjustment resulting from a taxpayer appeal  
3 is made to the value of the property of a generation and  
4 transmission electric cooperative for the assessment year  
5 1997, the director shall recalculate the delivery tax rate for  
6 any affected electric competitive service area by reducing the  
7 base year assessed value of the property by the amount of the  
8 adjustment for the assessment year 1997 and as if such  
9 adjustment had been reflected in the initial determination of  
10 average centrally assessed property tax liability allocated to  
11 electric service in section 437A.4, subsection 3, paragraph  
12 "a". Rate recalculations shall be made and published in the  
13 Iowa administrative bulletin by the director on or before  
14 March 31 following the calendar year in which a final  
15 determination of the adjustment is made. Taxpayers shall  
16 report to the director any increase or decrease in the  
17 tentative replacement tax required to be shown to be due  
18 pursuant to subsection 1, paragraph "e", for any tax year with  
19 the return for the year in which the recalculated tax rates  
20 which gave rise to the adjustment are published in the Iowa  
21 administrative bulletin. The director and the department of  
22 management shall redetermine the allocation of replacement  
23 taxes pursuant to section 437A.15 for each affected tax year.  
24 If a taxpayer has overpaid replacement taxes, such overpayment  
25 shall be reported by the director to such taxpayer and to the  
26 appropriate county treasurers and such overpayment shall be a  
27 credit against the replacement taxes owed by such taxpayer for  
28 the year in which the recalculated rates which gave rise to  
29 the overpayment are published in the Iowa administrative  
30 bulletin. If a taxpayer has overpaid centrally assessed  
31 property taxes for the 1997 assessment year, such overpayment  
32 shall be a credit against replacement taxes owed by such  
33 taxpayer for the year in which the overpayment is determined.  
34 Unused credits may be carried forward and reduce future  
35 replacement tax liabilities until exhausted.

1     Sec. 10. NEW SECTION. 437A.9 FAILURE TO FILE RETURN --  
2 INCORRECT RETURN.

3     1. As soon as practicable after a return required by  
4 section 437A.8, subsection 1, is filed, and in any event  
5 within three years after such return is filed, the director  
6 shall examine the return, determine the tax due if the return  
7 is found to be incorrect, and give notice to the taxpayer of  
8 the determination as provided in subsection 2. The period for  
9 the examination and determination of the correct amount of tax  
10 is unlimited in the case of a false or fraudulent return made  
11 with the intent to evade any tax or in the case of a failure  
12 to file a return. The chief financial officer of a city shall  
13 have the same authority as is granted to the director under  
14 this section with respect to a return filed pursuant to  
15 section 437A.8, subsection 2.

16     2. If a return required by section 437.8, subsection 1, is  
17 not filed, or if such return when filed is incorrect or  
18 insufficient and the taxpayer fails to file a corrected or  
19 sufficient return within twenty days after such return is  
20 required by notice from the director, the director shall  
21 determine the amount of tax due from information as the  
22 director may be able to obtain and, if necessary, may estimate  
23 the tax due on the basis of external indices. The director  
24 shall give notice of the determination to the taxpayer liable  
25 for the tax and to the county treasurers to whom the tax is  
26 owed. The determination shall fix the tax unless the taxpayer  
27 against whom it is levied, within sixty days after notice of  
28 the determination, applies to the director for a hearing. At  
29 the hearing evidence may be offered to support the  
30 determination or to prove that it is incorrect. After the  
31 hearing the director shall give notice of the decision to the  
32 person liable for the tax and to the county treasurers to whom  
33 the tax is owed.

34     3. The three-year period of limitation provided in  
35 subsection 1 may be extended by the taxpayer by signing a

1 waiver agreement form provided by the department. The  
2 agreement shall stipulate the period of extension and the tax  
3 period to which the extension applies. The agreement shall  
4 also provide that a claim for refund may be filed by the  
5 taxpayer at any time during the period of extension.

6 Sec. 11. NEW SECTION. 437A.10 JUDICIAL REVIEW.

7 1. Judicial review of the actions of the director may be  
8 sought pursuant to chapter 17A, the Iowa administrative  
9 procedure Act.

10 2. For cause and upon a showing by the director that  
11 collection of the tax in dispute is in doubt, the court may  
12 order the petitioner to file with the clerk of the district  
13 court a bond for the use of the appropriate local taxing  
14 districts, with sureties approved by the clerk of the district  
15 court, in the amount of the tax appealed from, conditioned  
16 upon the performance by the petitioner of any orders of the  
17 court.

18 3. An appeal may be taken by the taxpayer or the director  
19 to the supreme court irrespective of the amount involved.

20 4. A person aggrieved by a decision of the chief financial  
21 officer of a city under this chapter may seek review by writ  
22 of certiorari within thirty days of the decision sought to be  
23 reviewed.

24 Sec. 12. NEW SECTION. 437A.11 LIEN -- ACTIONS  
25 AUTHORIZED.

26 Whenever a taxpayer who is liable to pay a tax imposed by  
27 subchapter 2 refuses or neglects to pay such tax, the amount,  
28 including any interest, penalty, or addition to such tax,  
29 together with the costs that may accrue, shall be a lien in  
30 favor of the chief financial officer of the city or the county  
31 treasurer to which the tax is owed upon all property and  
32 rights to property, whether real or personal, belonging to the  
33 taxpayer. The lien shall be prior to and superior over all  
34 subsequent liens upon any personal property within this state,  
35 or right to such personal property, belonging to the taxpayer,



1 without the necessity of recording the lien. The requirement  
 2 for recording, as applied to the tax imposed by subchapter 2,  
 3 shall apply only to a lien upon real property. The lien may  
 4 be preserved against subsequent mortgagees, purchasers, or  
 5 judgment creditors, for value and without notice of the lien,  
 6 on any real property situated in a county, by the county  
 7 treasurer to which replacement tax is owed by filing with the  
 8 recorder of the county in which the real property is located a  
 9 notice of the lien. For purposes of the replacement tax  
 10 collected by a city, the lien may be preserved against  
 11 subsequent mortgagees, purchasers, or judgment creditors, for  
 12 value and without notice of the lien, on any real property  
 13 situated in the county, by the chief financial officer of the  
 14 city to which replacement tax is owed by filing with the  
 15 recorder of the county in which the real property is located a  
 16 notice of the lien.

17 The county recorder of each county shall prepare and keep  
 18 in the recorder's office a book to be known as the index of  
 19 replacement tax liens, so ruled as to show in appropriate  
 20 columns under the names of taxpayers arranged alphabetically,  
 21 all of the following:

- 22 1. The name of the taxpayer.
- 23 2. The name of the county treasurer and county or the name  
 24 of the chief financial officer and city as claimant.
- 25 3. Time the notice of lien was received.
- 26 4. Date of notice.
- 27 5. Amount of lien then due.
- 28 6. Date of assessment.
- 29 7. Date when the lien is satisfied.

30 The recorder shall endorse on each notice of lien the day,  
 31 hour, and minute when received and preserve such notice, and  
 32 shall promptly record the lien in the manner provided for  
 33 recording real estate mortgages. The lien is effective from  
 34 the time of the indexing of the lien.

35 The county treasurer or chief financial officer of the city

1 shall pay a recording fee as provided in section 331.604, for  
2 the recording of the lien, or for its satisfaction.

3 Upon the payment of the replacement tax as to which a  
4 county treasurer or chief financial officer of a city has  
5 filed notice with a county recorder, the county treasurer or  
6 chief financial officer of the city shall promptly file with  
7 the recorder a satisfaction of the replacement tax. The  
8 recorder shall enter the satisfaction on the notice on file in  
9 the recorder's office and indicate that fact on the index.

10 Section 445.3 applies with respect to the replacement taxes  
11 and penalties imposed by this chapter, except for the  
12 provisions limiting the commencement of actions.

13 Sec. 13. NEW SECTION. 437A.12 SERVICE OF NOTICE.

14 1. A notice authorized or required under this chapter may  
15 be given by mailing the notice to the taxpayer, addressed to  
16 the taxpayer at the address given in the last return filed by  
17 the taxpayer pursuant to this chapter, or if no return has  
18 been filed, then to the most recent address of the taxpayer  
19 obtainable. The mailing of the notice is presumptive evidence  
20 of the receipt of the notice by the taxpayer to whom the  
21 notice is addressed. A period of time within which some  
22 action must be taken for which notice is provided under this  
23 section commences to run from the date of mailing of the  
24 notice.

25 2. There is no limitation for the enforcement of a civil  
26 remedy pursuant to any proceeding or action taken to levy,  
27 appraise, assess, determine, or enforce the collection of any  
28 tax or penalty due under this chapter.

29 Sec. 14. NEW SECTION. 437A.13 PENALTIES -- OFFENSES --  
30 LIMITATION.

31 1. A taxpayer is subject to the penalty provisions in  
32 section 421.27 with respect to any replacement tax due under  
33 this chapter. A taxpayer shall also pay interest on the  
34 delinquent replacement tax at the rate in effect under section  
35 421.7 for each month computed from the date the payment was

1 due, counting each fraction of a month as an entire month.  
 2 The penalty and interest shall be paid to the county  
 3 treasurer, or in the case of penalty and interest associated  
 4 with a municipal transfer replacement tax to the city  
 5 financial officer, and shall be disposed of in the same manner  
 6 as other receipts under this chapter. Unpaid penalties and  
 7 interest may be enforced in the same manner as provided for  
 8 unpaid replacement tax under this chapter.

9 2. A taxpayer, or officer, member, or employee of the  
 10 taxpayer, who willfully attempts to evade the replacement tax  
 11 imposed or the payment of the replacement tax is guilty of a  
 12 class "D" felony.

13 3. The issuance of a certificate by the director or a  
 14 county treasurer stating that a replacement tax has not been  
 15 paid, that a return has not been filed, or that information  
 16 has not been supplied pursuant to this chapter is prima facie  
 17 evidence of such failure.

18 4. A taxpayer, or officer, member, or employee of the  
 19 taxpayer, required to pay a replacement tax, or required to  
 20 make, sign, or file an annual return or supplemental return,  
 21 who willfully makes a false or fraudulent annual return, or  
 22 who willfully fails to pay at least ninety percent of the  
 23 replacement tax or willfully fails to make, sign, or file the  
 24 annual return, as required, is guilty of a fraudulent  
 25 practice.

26 5. For purposes of determining the place of trial for a  
 27 violation of this section, the situs of an offense is in the  
 28 county of the residence of the taxpayer, officer, member, or  
 29 employee of the taxpayer charged with the offense, unless the  
 30 taxpayer, officer, member, or employee of the taxpayer is a  
 31 nonresident of this state or the residence cannot be  
 32 established, in which event the situs of the offense is in  
 33 Polk county.

34 6. Prosecution for an offense specified in this section  
 35 shall be commenced within six years after the commission of

1 the offense.

2 Sec. 15. NEW SECTION. 437A.14 CORRECTION OF ERRORS --  
3 REFUNDS OR CREDITS OF REPLACEMENT TAX PAID -- INFORMATION  
4 CONFIDENTIAL -- PENALTY.

5 1. a. If an amount of replacement tax, penalty, or  
6 interest has been paid which was not due under this chapter, a  
7 city's chief financial officer or county treasurer to whom  
8 such erroneous payment was made shall do one of the following:

9 (1) Credit the amount of the erroneous payment against any  
10 replacement tax due, or to become due, from the taxpayer on  
11 the books of the city or county.

12 (2) Refund the amount of the erroneous payment to the  
13 taxpayer.

14 b. Claims for refund or credit of replacement taxes paid  
15 shall be filed with the director. A claim for refund or  
16 credit that is not filed with the director within three years  
17 after the replacement tax payment upon which a refund or  
18 credit is claimed became due, or one year after the  
19 replacement tax payment was made, whichever time is later,  
20 shall not be allowed. A claim for refund or credit of tax  
21 alleged to be unconstitutional not filed with the director  
22 within ninety days after the replacement tax payment upon  
23 which a refund or credit is claimed became due shall not be  
24 allowed. As a precondition for claiming a refund or credit of  
25 alleged unconstitutional taxes, such taxes must be paid under  
26 written protest which specifies the particulars of the alleged  
27 unconstitutionality. Claims for refund or credit may only be  
28 made by, and refunds or credits may only be made to, the  
29 person responsible for paying the replacement tax, or such  
30 person's successors. The director shall notify affected  
31 county treasurers of the acceptance or denial of any refund  
32 claim. Section 421.10 applies to claims denied by the  
33 director.

34 2. It is unlawful for any present or former officer or  
35 employee of the state to divulge or to make known in any

1 manner to any person the kilowatt-hours of electricity or  
 2 therms of natural gas delivered by a taxpayer in a competitive  
 3 service area disclosed on a tax return, return information, or  
 4 investigative or audit information. A person who violates  
 5 this section is guilty of a serious misdemeanor. If the  
 6 offender is an officer or employee of the state, such person,  
 7 in addition to any other penalty, shall also be dismissed from  
 8 office or discharged from employment. This section does not  
 9 prohibit turning over to duly authorized officers of the  
 10 United States or tax officials of other states such kilowatt-  
 11 hours or therms pursuant to agreement between the director and  
 12 the secretary of the treasury of the United States or the  
 13 secretary's delegate or pursuant to a reciprocal agreement  
 14 with another state.

15 3. Unless otherwise expressly permitted by a section  
 16 referencing this chapter, the kilowatt-hours of electricity or  
 17 therms of natural gas delivered by a taxpayer in a competitive  
 18 service area shall not be divulged to any person or entity,  
 19 other than the taxpayer, the department, or the internal  
 20 revenue service for use in a matter unrelated to tax  
 21 administration.

22 This prohibition precludes persons or entities other than  
 23 the taxpayer, the department, or the internal revenue service  
 24 from obtaining such information from the department. A  
 25 subpoena, order, or process which requires the department to  
 26 produce such information to a person or entity, other than the  
 27 taxpayer, the department, or internal revenue service, for use  
 28 in a nontax proceeding is void.

29 4. Notwithstanding subsections 2 and 3, the chief  
 30 financial officer of any local taxing district and any  
 31 designee of such officer shall have access to any computations  
 32 made by the director pursuant to the provisions of this  
 33 chapter, and any tax return or other information used by the  
 34 director in making such computations, which affect the  
 35 replacement tax owed by any such taxpayer.

1 5. Local taxing district employees are deemed to be  
2 officers and employees of the state for purposes of subsection  
3 2.

4 6. Claims for refund or credit of municipal transfer  
5 replacement tax shall be filed with the appropriate city's  
6 chief financial officer. Subsection 1 applies with respect to  
7 the transfer replacement tax and the city's chief financial  
8 officer shall have the same authority as is granted to the  
9 director under this section with respect to a return filed  
10 pursuant to section 437A.8, subsection 2.

11 Sec. 16. NEW SECTION. 437A.15 ALLOCATION OF REVENUE.

12 1. The director and the department of management shall  
13 compute the allocation of all replacement tax revenues other  
14 than transfer replacement tax revenues among the local taxing  
15 districts in accordance with this section and shall report  
16 such allocation by local taxing districts to the county  
17 treasurers on or before August 15 following a tax year.

18 2. The director shall determine and report to the  
19 department of management the total replacement taxes to be  
20 collected from each taxpayer for the tax year on or before  
21 July 30 following such tax year.

22 3. All replacement taxes owed by a taxpayer shall be  
23 allocated among the local taxing districts in which such  
24 taxpayer's property is located in accordance with a general  
25 allocation formula determined by the department of management  
26 on the basis of general property tax equivalents. General  
27 property tax equivalents shall be determined by applying the  
28 levy rates reported by each local taxing district to the  
29 department of management on or before June 30 following a tax  
30 year to the assessed value of taxpayer property allocated to  
31 each such local taxing district as adjusted and reported to  
32 the department of management in such tax year by the director  
33 pursuant to section 437A.20, subsection 2. The general  
34 allocation formula for a tax year shall allocate to each local  
35 taxing district that portion of the replacement taxes owed by

1 each taxpayer which bears the same ratio as such taxpayer's  
2 general property tax equivalents for each local taxing  
3 district bears to such taxpayer's total general property tax  
4 equivalents for all local taxing districts in Iowa.

5 4. On or before August 31 following tax years 1998, 1999,  
6 and 2000, each county treasurer shall compute a special  
7 utility property tax levy or tax credit for each taxpayer for  
8 which a replacement tax liability for each such tax year is  
9 reported to the county treasurer pursuant to subsection 1.

10 The amount of the special utility property tax levy or credit  
11 shall be determined for each taxpayer by the county treasurer  
12 by comparing the taxpayer's total replacement tax liability  
13 allocated to taxing districts in the county pursuant to this  
14 section with the anticipated tax revenues from the taxpayer.

15 If the taxpayer's total replacement tax liability allocated to  
16 taxing districts in the county is less than the anticipated  
17 tax revenues from the taxpayer, the county treasurer shall  
18 levy a special utility property tax equal to the shortfall  
19 which shall be added to and collected with the replacement tax  
20 owed by the taxpayer to the county treasurer for the tax year  
21 pursuant to section 437A.8, subsection 4. If the taxpayer's  
22 total replacement tax liability allocated to taxing districts  
23 in the county exceeds the anticipated tax revenues from the  
24 taxpayer, the county treasurer shall issue a credit to the  
25 taxpayer which shall be applied to reduce the taxpayer's  
26 replacement tax liability to the county treasurer for the tax  
27 year. If the taxpayer's total replacement tax liability  
28 allocated to taxing districts in the county equals the  
29 anticipated tax revenues from the taxpayer, no levy or credit  
30 is required. For each county, the "anticipated tax revenues  
31 from a taxpayer" means the product of the consolidated levies  
32 of all taxing districts in the county and the value of  
33 taxpayer property allocated to the taxing districts in the  
34 county and reported to the county auditor during the tax year  
35 pursuant to section 437A.19, subsection 2. Special utility

1 property tax levies and credits shall be treated as  
2 replacement taxes for purposes of section 437A.11 and section  
3 437A.14, subsection 1, except that any refund claim shall be  
4 filed with the county treasurer.

5 5. The replacement tax, as adjusted by any special utility  
6 property tax levy or credit and remitted to a county treasurer  
7 by each taxpayer, shall be treated as a property tax when  
8 received and shall be disposed of by the county treasurer as  
9 taxes on real estate. Notwithstanding the allocation  
10 provisions of this section, nothing in this section shall deny  
11 any affected taxing entity, as defined in section 403.17,  
12 subsection 1, which has enacted an ordinance or entered into  
13 an agreement for the division and allocation of taxes  
14 authorized under section 403.19 and under which ordinance or  
15 agreement the taxes collected in respect of properties owned  
16 by any of the taxpayers remitting replacement taxes pursuant  
17 to the provisions of this chapter are being divided and  
18 allocated, the right to receive its share of the replacement  
19 tax revenues collected for any year which would otherwise be  
20 paid to such affected taxing entity under the terms of any  
21 such ordinance or agreement had this chapter not been enacted.  
22 To the extent that adjustment must be made to the allocation  
23 described in this section to give effect to the terms of such  
24 ordinances or agreements, the department of management and the  
25 county treasurer shall make such adjustments.

26 6. In lieu of the adjustment provided for in subsection 5,  
27 the assessed value of property described in section 403.19,  
28 subsection 1, may be reduced by the city or county by the  
29 amount of the taxable value of the property described in  
30 section 437A.16 included in such area on January 1, 1996,  
31 pursuant to amendment of the ordinance adopted by such city or  
32 county pursuant to section 403.19.

33 7. On or before January 1, 1999, the department of  
34 management, in consultation with the department of revenue and  
35 finance, shall initiate and coordinate the establishment of a



1 task force and provide staffing assistance to the task force.  
 2 It is the intent of the general assembly that the task force  
 3 include representatives of the department of management,  
 4 department of revenue and finance, electric companies, natural  
 5 gas companies, municipal utilities, electric cooperatives,  
 6 counties, cities, school boards, and other appropriate  
 7 stakeholders.

8 The task force shall study the effects of the replacement  
 9 tax on local taxing districts and taxpayers and the department  
 10 of management shall report to the general assembly by January  
 11 1, 2002, the results of the study.

12 Sec. 17. NEW SECTION. 437A.16 ASSESSMENT EXCLUSIVE.

13 All operating property and all other property that is  
 14 primarily and directly used in the production, generation,  
 15 transmission, or delivery of electricity or natural gas owned  
 16 by or leased to a person subject to taxation under this  
 17 chapter is exempt from taxation except as otherwise provided  
 18 by this chapter. This exemption shall not extend to taxes  
 19 imposed under chapters 437, 438, and 468, taxpayers described  
 20 in section 437A.8, subsection 6, or facilities or property  
 21 described in section 437A.6, subsection 1, paragraphs "a"  
 22 through "e", and section 437A.7, subsection 2.

23 Sec. 18. NEW SECTION. 437A.17 STATUTES APPLICABLE --  
 24 RATE CALCULATIONS.

25 1. The director shall administer and enforce the  
 26 replacement tax imposed by this chapter in the same manner as  
 27 provided in and subject to sections 422.68, 422.70, 422.71,  
 28 and 422.75.

29 2. The calculation of tax rates and adjustments to such  
 30 rates by the director pursuant to this chapter do not  
 31 constitute rulemaking subject to the provisions of chapter  
 32 17A.

33 SUBCHAPTER 3

34 STATEWIDE PROPERTY TAX

35 Sec. 19. NEW SECTION. 437A.18 TAX IMPOSITION.

1 An annual statewide property tax of three cents per one  
2 thousand dollars of assessed value is imposed upon all  
3 property described in section 437A.16 on the assessment date  
4 of January 1.

5 Sec. 20. NEW SECTION. 437A.19 ADJUSTMENT TO ASSESSED  
6 VALUE -- REPORTING REQUIREMENTS.

7 1. a. A taxpayer whose property is subject to the  
8 statewide property tax shall report to the director by July 1,  
9 1998, and by May 1 of each subsequent tax year, on forms  
10 prescribed by the director, the book value, as of the  
11 beginning and end of the preceding calendar year, of all of  
12 the following:

13 (1) The local amount of any major addition by local taxing  
14 district.

15 (2) The statewide amount of any major addition without  
16 notation of location.

17 (3) Any building in Iowa at acquisition cost of more than  
18 ten million dollars which was originally placed in service by  
19 the taxpayer prior to January 1, 1997, and which was  
20 transferred or disposed of in the preceding calendar year,  
21 without notation of location.

22 (4) Any electric power generating plant in Iowa at  
23 acquisition cost of more than ten million dollars which was  
24 originally placed in service by the taxpayer prior to January  
25 1, 1997, and which was transferred or disposed of in the  
26 preceding calendar year, without notation of location.

27 (5) All other taxpayer property without notation of  
28 location.

29 (6) The local amount of any major addition eligible for  
30 the urban revitalization exemption provided for in chapter  
31 404, by situs.

32 b. For purposes of this section:

33 (1) "Book value" means cost less accumulated depreciation  
34 determined under generally accepted accounting principles.

35 (2) "Taxpayer property" means property described in

1 section 437A.16.

2 (3) "To dispose of" means to sell, abandon, decommission,  
3 or retire an asset.

4 (4) "Transfer" means a transaction which results in a  
5 change of ownership of taxpayer property and includes a  
6 capital lease transaction.

7 c. For purposes of this subsection, "taxpayer" includes a  
8 person who would have been a taxpayer in calendar year 1997  
9 had the provisions of this chapter been in effect for the 1997  
10 assessment year.

11 d. If a taxpayer owns or leases pursuant to a capital  
12 lease less than the entire interest in a major addition, the  
13 local amount and statewide amount, if any, of such major  
14 addition shall be apportioned to the taxpayer on the basis of  
15 its percentage interest in such major addition.

16 2. Beginning January 1, 1998, the assessed value of  
17 taxpayer property shall be adjusted annually as provided in  
18 this section. The director, with respect to each taxpayer,  
19 shall do all of the following:

20 a. Adjust the assessed value of taxpayer property in each  
21 local taxing district by the change in book value during the  
22 preceding calendar year of the local amount of any major  
23 addition reported within such local taxing district.

24 b. Adjust the assessed value of taxpayer property in each  
25 local taxing district by allocating the change in book value  
26 during the preceding calendar year of the statewide amount and  
27 all other taxpayer property described in subsection 1,  
28 paragraph "a", subparagraph (5), to the assessed value of all  
29 taxpayer property in the state pro rata according to its  
30 preadjustment value.

31 c. In the case of taxpayer property described in  
32 subsection 1, paragraph "a", subparagraphs (3) and (4),  
33 decrease the assessed value of taxpayer property in each local  
34 taxing district by the taxable value of such property within  
35 each such local taxing district on January 1, 1997.

1 d. In the event of a merger or consolidation of two or  
2 more taxpayers, to determine the assessed value of the  
3 surviving taxpayer, combine the assessed values of such  
4 taxpayers immediately prior to the merger or consolidation.

5 e. In the event any taxpayer property is eligible for the  
6 urban revitalization tax exemption described in chapter 404,  
7 adjust the assessed value of taxpayer property within each  
8 affected local taxing district to reflect such exemption.

9 f. In the event the base year assessed value of taxpayer  
10 property is adjusted as a result of taxpayer appeals, reduce  
11 the assessed value of taxpayer property in each local taxing  
12 district to reflect such adjustment. The adjustment shall be  
13 allocated in proportion to the allocation of the taxpayer's  
14 assessed value among the local taxing districts determined  
15 without regard to this adjustment. If an adjustment to the  
16 base year assessed value of taxpayer property is finally  
17 determined on or before September 30, 1998, it shall be  
18 reflected in the January 1, 1998, assessed value. Otherwise,  
19 any such adjustment shall be made as of January 1 of the year  
20 following the date on which the adjustment is finally  
21 determined.

22 g. In the event the January 1, 1997, assessed value of the  
23 property of a generation and transmission electric cooperative  
24 is adjusted as a result of taxpayer appeals, reduce the base  
25 year assessed value of taxpayer property by the amount of the  
26 adjustment for the assessment year 1997 in each local taxing  
27 district to reflect such adjustment. The adjustment shall be  
28 allocated in proportion to the allocation of the taxpayer's  
29 assessed value among the local taxing districts determined  
30 without regard to this adjustment. If an adjustment to the  
31 base year assessed value of taxpayer property is finally  
32 determined on or before September 30, 1998, such adjustment  
33 shall be reflected in the January 1, 1998, assessed value.  
34 Otherwise, any such adjustment shall be made as of January 1  
35 of the year following the date on which the adjustment is

1 finally determined.

2 In no event shall the adjustments set forth in this  
3 subsection reduce the assessed value of taxpayer property in  
4 any local taxing district below zero.

5 The director, on or before October 31, 1998, in the case of  
6 January 1, 1998, assessed values, and on or before August 31  
7 of each subsequent assessment year, shall report to the  
8 department of management and to the auditor of each county the  
9 adjusted assessed value of taxpayer property as of January 1  
10 of such assessment year for each local taxing district. For  
11 purposes of this subsection, the assessed value of taxpayer  
12 property in each local taxing district subject to adjustment  
13 under this section by the director means the assessed value of  
14 such property as of the preceding January 1 as determined and  
15 allocated among the local taxing districts by the director.

16 Nothing in this chapter shall be interpreted to authorize  
17 local taxing districts to exclude from the calculation of levy  
18 rates the adjusted assessed value of taxpayer property  
19 reported to county auditors pursuant to this subsection.

20 Sec. 21. NEW SECTION. 437A.20 TAX EXEMPTIONS.

21 Except as provided in section 437A.16, all property tax  
22 exemptions in the Code do not apply to property subject to the  
23 statewide property tax unless such exemptions expressly refer  
24 to the statewide property tax, except that if property was  
25 exempt from property tax on January 1, 1998, such exemption  
26 shall continue until the exemption expires, is phased out, or  
27 is repealed. The property of a taxpayer who does not owe any  
28 replacement tax is exempt from the statewide property tax for  
29 the coinciding assessment year.

30 Sec. 22. NEW SECTION. 437A.21 RETURN AND PAYMENT  
31 REQUIREMENTS.

32 1. Each electric company, natural gas company, electric  
33 cooperative, municipal utility, and other person whose  
34 property is subject to the statewide property tax shall file  
35 with the director a return, on or before February 28 following

1 the assessment year, including, but not limited to, the  
2 following information:

3 a. The assessed value of property subject to the statewide  
4 property tax.

5 b. The amount of statewide property tax computed on such  
6 assessed value.

7 2. The first return under subsection 1 is due on or before  
8 February 28, 1999.

9 3. If an electric company, natural gas company, electric  
10 cooperative, municipal utility, or person is not required to  
11 file a statewide property tax return on or before February 28,  
12 1999, but is required to file a return after such date, the  
13 return shall be filed on or before the due date. This  
14 subsection also applies in the event of a consolidation.

15 4. A return shall be signed by an officer, or other person  
16 duly authorized by the taxpayer, and must be certified as  
17 correct and in accordance with rules and forms prescribed by  
18 the director.

19 5. At the time of filing the return with the director, the  
20 taxpayer shall calculate the statewide property tax owed for  
21 the assessment year and shall remit to the director the  
22 statewide property tax required to be shown to be due on the  
23 return.

24 Sec. 23. NEW SECTION. 437A.22 STATUTES APPLICABLE.

25 Sections 437A.9, 437A.10, 437A.12, 437A.13, and 437A.14,  
26 subsection 1, are applicable to electric companies, natural  
27 gas companies, electric cooperatives, municipal utilities, and  
28 persons whose property is subject to the statewide property  
29 tax. However, a required credit or refund of overpaid  
30 statewide property tax pursuant to section 437A.14, subsection  
31 1, as it applies to this subchapter, shall be made by the  
32 director and not by city chief financial officers or county  
33 treasurers.

34 Section 422.26 applies with respect to the statewide  
35 property tax and penalties imposed by this chapter, except

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1 that, as applied to any tax imposed by this chapter, the lien  
 2 provided shall be prior to and superior over all subsequent  
 3 liens upon any personal property within this state or right to  
 4 such personal property belonging to the taxpayer, without the  
 5 necessity of recording the lien as provided in section 422.26.  
 6 The requirement for recording, as applied to the statewide  
 7 property tax imposed by this chapter, shall apply only to a  
 8 lien upon real property. In order to preserve such lien  
 9 against subsequent mortgagees, purchasers, or judgment  
 10 creditors, for value and without notice of the lien, on any  
 11 real property situated in a county, the director shall file  
 12 with the recorder of the county in which the real property is  
 13 located a notice of the lien.  
 14 The county recorder of each county shall prepare and keep  
 15 in the recorder's office a book to be known as the index of  
 16 statewide property tax liens, so ruled as to show in  
 17 appropriate columns under the names of taxpayers arranged  
 18 alphabetically, all of the following:

- 19 1. The name of the taxpayer.
- 20 2. The name "State of Iowa" as claimant.
- 21 3. Time the notice of lien was received.
- 22 4. Date of notice.
- 23 5. Amount of lien then due.
- 24 6. Date of assessment.
- 25 7. Date when the lien is satisfied.
- 26 The recorder shall endorse on each notice of lien  
 27 hour, and minute when received and preserve such notice  
 28 shall promptly record the lien in the manner provided  
 29 recording real estate mortgages. The lien is effective  
 30 the time of the indexing of the lien.  
 The director, from moneys appropriated to the  
 and finance for this purpose, shall pay the  
 a in section 331.604 for the replacement tax  
 satisfaction.

1 director has filed notice with a county recorder, the director  
2 shall promptly file with the recorder a satisfaction of the  
3 replacement tax. The recorder shall enter the satisfaction on  
4 the notice on file in the recorder's office and indicate that  
5 fact on the index.

6 Sec. 24. NEW SECTION. 437A.23 DEPOSIT OF TAX PROCEEDS.

7 All revenues received from imposition of the statewide  
8 property tax shall be deposited in the general fund of the  
9 state. An amount up to one-third of such revenues shall be  
10 available to the utilities board for staffing assistance  
11 provided to the replacement tax study committee established  
12 pursuant to section 476.6, subsection 23, during the term of  
13 the study committee. Fifty percent of the remaining revenues  
14 shall be available to the department of management for  
15 salaries, support, services, and equipment to administer the  
16 replacement tax and to provide staffing assistance to the task  
17 force established pursuant to section 437A.15, subsection 7.  
18 The balance of the revenues shall be available to the  
19 department of revenue and finance for salaries, support,  
20 services, and equipment to administer and enforce the  
21 replacement tax and the statewide property tax.

22

#### SUBCHAPTER 4

23

#### GENERAL PROVISIONS

24 Sec. 25. NEW SECTION. 437A.24 RECORDS.

25 Each electric company, natural gas company, electric  
26 cooperative, municipal utility, and other person who is  
27 subject to the replacement tax or the statewide property tax  
28 shall maintain records associated with the replacement tax and  
29 the assessed value of property subject to the statewide  
30 property tax for a period of ten years following the later of  
31 the original due date for filing a return pursuant to sections  
32 437A.8 and 437A.22 in which such taxes are reported, or the  
33 date on which either such return is filed. Such records shall  
34 include those associated with any additions or dispositions of  
35 property, and the allocation of such property among local



1 taxing districts.

2 Sec. 26. NEW SECTION. 437A.25 RULES.

3 The director of revenue and finance may adopt rules  
4 pursuant to chapter 17A for the administration and enforcement  
5 of this chapter.

6 Sec. 27. Section 257.3, subsection 1, Code 1997, is  
7 amended by adding the following unnumbered paragraph:

8 NEW UNNUMBERED PARAGRAPH. Replacement taxes under chapter  
9 437A shall be regarded as property taxes for purposes of this  
10 chapter.

11 Sec. 28. Section 427.1, subsection 2, Code Supplement  
12 1997, is amended to read as follows:

13 2. MUNICIPAL AND MILITARY PROPERTY. The property of a  
14 county, township, city, school corporation, levee district,  
15 drainage district or military company of the state of Iowa,  
16 when devoted to public use and not held for pecuniary profit,  
17 except property of a municipally owned electric utility held  
18 under joint ownership and property of an electric power  
19 facility financed under chapter 28F which shall be subject to  
20 ~~assessment-and taxation under provisions-of-chapters-428-and~~  
21 ~~437~~ chapter 437A. The exemption for property owned by a city  
22 or county also applies to property which is operated by a city  
23 or county as a library, art gallery or museum, conservatory,  
24 botanical garden or display, observatory or science museum, or  
25 as a location for holding athletic contests, sports or  
26 entertainment events, expositions, meetings or conventions, or  
27 leased from the city or county for any such purposes. Food  
28 and beverages may be served at the events or locations without  
29 affecting the exemptions, provided the city has approved the  
30 serving of food and beverages on the property if the property  
31 is owned by the city or the county has approved the serving of  
32 food and beverages on the property if the property is owned by  
33 the county.

34 Sec. 29. Section 427B.17, subsection 5, Code Supplement  
35 1997, is amended to read as follows:

1 5. This section shall not apply to property assessed by  
2 the department of revenue and finance pursuant to sections  
3 428.24 to 428.29, or chapters 433, 434, and 436 to 438, and  
4 such property shall not receive the benefits of this section.

5 Any electric power generating plant which operated during  
6 the preceding assessment year at a net capacity factor of more  
7 than twenty percent, shall ~~not receive the benefits of this~~  
8 ~~section or of sections 15-332 and 15-334~~ be taxed pursuant to  
9 chapter 437A. ~~For purposes of this section, "electric power~~  
10 ~~generating plant" means any name-plate-rated electric power~~  
11 ~~generating plant, in which electric energy is produced from~~  
12 ~~other forms of energy, including all taxable land, buildings,~~  
13 ~~and equipment used in the production of such energy. "Net~~  
14 ~~capacity factor" means net actual generation divided by the~~  
15 ~~product of net maximum capacity times the number of hours the~~  
16 ~~unit was in the active state during the assessment year. Upon~~  
17 ~~commissioning, a unit is in the active state until it is~~  
18 ~~decommissioned. "Net actual generation" means net electrical~~  
19 ~~megawatt hours produced by the unit during the preceding~~  
20 ~~assessment year. "Net maximum capacity" means the capacity~~  
21 ~~the unit can sustain over a specified period when not~~  
22 ~~restricted by ambient conditions or equipment deratings, minus~~  
23 ~~the losses associated with station service or auxiliary loads.~~

24 Sec. 30. Section 428.24, Code 1997, is amended to read as  
25 follows:

26 428.24 PUBLIC UTILITY PLANTS.

27 The lands, buildings, machinery, and mains belonging to  
28 individuals or corporations operating waterworks or gasworks  
29 or pipelines, ~~the lands, buildings, machinery, tracks, poles,~~  
30 ~~and wires belonging to individuals, corporations or electric~~  
31 ~~power agencies furnishing electric light or power, and the~~  
32 ~~lands, buildings, machinery, poles, wires, overhead~~  
33 ~~construction, tracks, cables, conduits, and fixtures belonging~~  
34 ~~to individuals or corporations operating railways by cable or~~  
35 ~~electricity, or operating elevated street railways, except~~

1 those natural gas pipelines permitted pursuant to chapter 479,  
 2 shall be listed and assessed by the department of revenue and  
 3 finance. In the making of assessments of waterworks plants,  
 4 the value of any interest in the property assessed, of the  
 5 municipal corporation where it is situated, shall be deducted,  
 6 whether the interest is evidenced by stock, bonds, contracts,  
 7 or otherwise.

8 Sec. 31. Section 428.26, Code 1997, is amended to read as  
 9 follows:

10 428.26 PERSONAL PROPERTY.

11 All the personal property of such individuals and  
 12 corporations used or purchased by them for the purposes of  
 13 such gas or waterworks~~,-electric-light-plants,-electric-or~~  
 14 ~~cable-railways,-elevated-street-railways-or-street-railways~~  
 15 ~~operated-by-animal-power,-including-the-rolling-stock-of-such~~  
 16 ~~railways-and-street-railways,-and-the-animals-belonging-to~~  
 17 ~~such-street-railways-operated-by-animal-power,~~ shall be listed  
 18 and assessed by the department of revenue and finance. In the  
 19 making of any such assessment of waterworks plants, the value  
 20 of any interest in the property so assessed, of the municipal  
 21 corporation wherein in which the same waterworks is situated,  
 22 shall be deducted, whether such interest be evidenced by  
 23 stock, bonds, contracts, or otherwise.

24 Sec. 32. Section 428.28, Code 1997, is amended to read as  
 25 follows:

26 428.28 ANNUAL REPORT BY UTILITY.

27 Every individual, copartnership, corporation, or  
 28 association operating for profit, waterworks or gasworks or  
 29 pipe lines~~,-electric-light-or-power-plant,-railways-operated~~  
 30 ~~by-electricity,-elevated-street-railways,-shall not permitted~~  
 31 pursuant to chapter 479, annually on or before the first-day  
 32 of May 1 of each calendar year, shall make a report on blanks  
 33 to be provided by the department of revenue and finance of all  
 34 of the property owned by such individual, copartnership,  
 35 corporation, or association within the incorporated limits of

1 any city in the state, and give such other information as the  
2 director of revenue and finance shall require.

3 Every individual, copartnership, corporation, or  
4 association which operates a public utility on a nonprofit  
5 basis other than a utility subject to tax under chapter 437A,  
6 as defined in section 428.24 shall annually, on or before the  
7 ~~first-day-of~~ May 1 of each calendar year, make a report on  
8 blanks to be provided by the department of revenue and finance  
9 of all of the property owned by the individual, copartnership,  
10 corporation, or association within the incorporated limits of  
11 any city in the state, and give other information the director  
12 of revenue and finance requires.

13 Sec. 33. Section 437.1, Code 1997, is amended by striking  
14 the section and inserting in lieu thereof the following:

15 437.1 DEFINITIONS.

16 As used in this chapter, unless the context otherwise  
17 requires:

18 1. "Company" means an electric cooperative referred to in  
19 section 437A.7, subsection 2, paragraph "c".

20 2. "Electric cooperative" means an electric utility  
21 provider formed or organized as an electric cooperative under  
22 the laws of this state or elsewhere.

23 3. "Transmission lines" means electric lines and  
24 associated facilities operating at thirty-four thousand five  
25 hundred volts or higher voltage, and substations,  
26 transformers, and associated facilities operated at thirty-  
27 four thousand five hundred or more volts on the low voltage  
28 side.

29 Sec. 34. Section 437.3, Code 1997, is amended to read as  
30 follows:

31 437.3 VERIFICATION.

32 The verification of any statement required by law shall ~~in~~  
33 ~~the case of a person,~~ be made by ~~such person,~~ ~~in the case of a~~  
34 ~~corporation,~~ ~~by the president or secretary thereof,~~ ~~and in~~  
35 ~~case of a copartnership, association, or syndicate,~~ by some

1 member, officer, or agent thereof of the company having  
2 knowledge of the facts.

3 Sec. 35. Section 438.1, Code 1997, is amended to read as  
4 follows:

5 438.1 TAXATION PROCEDURE.

6 Every person, copartnership, association, corporation, or  
7 syndicate engaged in the business of transporting or  
8 transmitting gas, gasoline, oils, or motor fuels by means of  
9 pipelines other than natural gas pipelines permitted pursuant  
10 to chapter 479, whether such pipelines be owned or leased,  
11 shall be taxed as herein provided in this chapter.

12 Sec. 36. Section 438.2, Code 1997, is amended to read as  
13 follows:

14 438.2 DEFINITIONS DEFINITION.

15 ~~The words "pipeline~~ "Pipeline company", as used in this  
16 chapter ~~shall be deemed and construed to mean,~~ means any  
17 person, copartnership, association, corporation, or syndicate  
18 that may own or operate or be engaged in operating or  
19 utilizing pipelines, other than natural gas pipelines  
20 permitted pursuant to chapter 479, for the purposes described  
21 in section 438.1.

22 Sec. 37. Section 441.73, subsection 1, Code Supplement  
23 1997, is amended to read as follows:

24 1. A litigation expense fund is created in the state  
25 treasury. The litigation expense fund shall be used for the  
26 payment of litigation expenses incurred by the state to defend  
27 property valuations established by the director of revenue and  
28 finance pursuant to section 428.24 and chapters 430A, 433,  
29 434, 436, 437, 437A, and 438, and for the payment of  
30 litigation expenses incurred by the state to defend the  
31 imposition of replacement taxes and statewide property taxes  
32 under chapter 437A.

33 Sec. 38. Section 476.6, Code 1997, is amended by adding  
34 the following new subsections:

35 NEW SUBSECTION. 22. The costs of the replacement tax

1 imposed pursuant to chapter 437A shall be reflected in the  
2 charges of utilities subject to rate regulation, in lieu of  
3 the utilities' costs of property taxes. The imposition of the  
4 replacement taxes pursuant to chapter 437A is not intended to  
5 initiate any change in the rates and charges for the sale of  
6 electricity, the sale of natural gas, or the transportation of  
7 natural gas that is subject to regulation by the board and in  
8 effect on the effective date of chapter 437A.

9 The cost of the replacement taxes imposed by chapter 437A  
10 shall be allocated among and within customer classes in a  
11 manner that will replicate the tax cost burden of the current  
12 property tax on individual customers to the maximum extent  
13 practicable.

14 Upon the restructuring of the electric industry in this  
15 state so that individual consumers are given the right to  
16 choose their electric suppliers, replacement tax costs shall  
17 be assigned to the service corresponding to the individual  
18 generation, transmission, and delivery taxes. In all other  
19 respects, the allocation of the replacement tax costs among  
20 and within the customer classes shall remain the same to the  
21 maximum extent practicable.

22 Notwithstanding this subsection, the board may determine  
23 the amount of replacement tax properly included in retail  
24 rates subject to its jurisdiction. The board may determine  
25 whether the base rates or some other form of rate is most  
26 appropriate for recovery of the costs of the replacement tax,  
27 subject to the requirement that utility rates be reasonable  
28 and just. The board may also determine the appropriate  
29 allocation of the tax. Any significant modification to rate  
30 design relating to the replacement tax shall be made in a  
31 manner consistent with this subsection unless made in a  
32 contested case proceeding where the impact of such  
33 modification on competition and consumer costs is considered.

34 NEW SUBSECTION. 23. On or before January 1, 2000, the  
35 utilities board, in consultation with the department of

1 revenue and finance, shall initiate and coordinate the  
 2 establishment of a replacement tax study committee and provide  
 3 staffing assistance to the committee. It is the intent of the  
 4 general assembly that the committee include representatives of  
 5 the utilities board, department of revenue and finance,  
 6 department of management, investor-owned utilities, municipal  
 7 utilities, cooperative utilities, local governments, major  
 8 customer classes, and other stakeholders.

9 The committee shall study the effects of the replacement  
 10 tax on both restructuring and the development of competition  
 11 in the gas and electric industries in this state. The board  
 12 shall report to the general assembly by January 1, 2002, the  
 13 results of the study, and the committee's recommendations as  
 14 to whether the replacement tax, in its then present form,  
 15 should be continued, whether a different form of taxation of  
 16 electric and gas utilities should be adopted in order to allow  
 17 free and fair competition in the electric and gas industries,  
 18 and fair competitive prices for all classes of consumers, and  
 19 whether a different basis for determination of the generation,  
 20 transmission, and delivery taxes should be adopted or whether  
 21 the relative share of the total replacement tax burden imposed  
 22 on each of the generation, transmission, and delivery  
 23 functions should be modified in order to allow free and fair  
 24 competition in the electric and gas industries, and fair  
 25 competitive prices for all classes of consumers. The  
 26 replacement tax study committee shall reconvene by January 1,  
 27 2005, to further study these same issues, and the board shall  
 28 report the results of the study and the committee's  
 29 recommendations to the general assembly by January 1, 2007.

30 Sec. 39. SPECIAL REPORTING REQUIREMENTS. Within ninety  
 31 days of the effective date of this Act, each electric company,  
 32 electric cooperative not described in section 437A.7,  
 33 subsection 2, paragraph "c", municipal utility, and natural  
 34 gas company shall report to the director, by certified  
 35 statement subject to audit, the following information:

1 1. The entity's liability for centrally assessed property  
2 tax, as defined in section 437A.3, subsection 2, allocated to  
3 electric service for the assessment years 1992 through 1996 on  
4 the basis of property tax payments made.

5 2. The entity's liability for centrally assessed property  
6 tax, as defined in section 437A.3, subsection 2, allocated to  
7 natural gas service for the assessment years 1992 through 1996  
8 on the basis of property tax payments made.

9 3. The entity's total kilowatt-hours of electricity  
10 generated which would have been subject to taxation under  
11 section 437A.6 for the 1997 assessment year had such taxation  
12 been in effect for assessment year 1997. Kilowatt-hours of  
13 electricity generated by a facility which was jointly owned or  
14 leased in assessment year 1997 shall be calculated and  
15 reported pursuant to section 437A.6, subsection 2, as if such  
16 subsection had been in effect for 1997.

17 4. The entity's total pole miles of electric transmission  
18 lines owned or leased on December 31, 1997, by line voltage,  
19 which would have been subject to taxation under section 437A.7  
20 for the 1997 assessment year had such taxation been in effect  
21 for assessment year 1997. Pole miles of electric transmission  
22 lines which were jointly owned or leased in assessment year  
23 1997 shall be calculated and reported pursuant to section  
24 437A.7, subsection 3, as if such subsection had been in effect  
25 for assessment year 1997.

26 5. The entity's total kilowatt-hours of electricity  
27 delivered to consumers which would have been subject to  
28 taxation under section 437A.4 for the assessment years 1993  
29 through 1997 had such taxation been in effect for such  
30 assessment years.

31 6. The entity's total therms of natural gas delivered to  
32 consumers which would have been subject to taxation under  
33 section 437A.5 for the assessment years 1993 through 1997 had  
34 such taxation been in effect for such assessment years.

35 7. For each generation and transmission electric



1 cooperative, the excess property tax liability assignable to  
2 each electric competitive service area principally served by  
3 its distribution electric cooperative and municipal electric  
4 cooperative association members pursuant to section 437A.4,  
5 subsection 3, paragraph "c", subparagraph (4).

6 8. For each municipal electric cooperative association,  
7 the excess property tax liability assignable to each electric  
8 competitive service area principally served by its municipal  
9 utility members on January 1, 1998.

10 If information necessary to compute the delivery tax rate  
11 for any electric or natural gas competitive service area is  
12 not timely reported, the director shall estimate a delivery  
13 tax rate for such electric or natural gas competitive service  
14 area which shall not be lower than the highest electric or  
15 natural gas delivery tax rate computed for other electric or  
16 natural gas competitive service areas. However, if such  
17 information is provided within thirty days after the director  
18 has published in the Iowa administrative bulletin the delivery  
19 tax rates computed pursuant to section 437A.4, subsection 3,  
20 paragraph "d", and section 437A.5, subsection 3, paragraph  
21 "c", the director shall recalculate the electric or natural  
22 gas delivery tax rate for such electric or natural gas  
23 competitive service area and notify the taxpayers of the new  
24 electric or natural gas delivery tax rate by publication in  
25 the Iowa administrative bulletin on or before January 31,  
26 1999.

27 Sec. 40. Sections 428.37 and 437.14, Code 1997, are  
28 repealed.

29 Sec. 41. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

30 1. This Act, being deemed of immediate importance, takes  
31 effect upon enactment.

32 2. This Act is retroactively applicable to property tax  
33 assessment years beginning on or after January 1, 1998, and to  
34 replacement tax years beginning on or after January 1, 1998.

35

EXPLANATION

1 This bill generally replaces the current central property  
2 tax assessment procedures utilized by the director of revenue  
3 and finance in valuing property of entities involved primarily  
4 in the production, delivery, and transmission of electricity  
5 and natural gas within this state, with excise taxes on  
6 electricity and natural gas, and a statewide property tax on  
7 certain property of such entities.

8 The bill provides for the retroactive applicability of the  
9 bill to property tax assessment years beginning on or after  
10 January 1, 1998, and to replacement tax years beginning on or  
11 after January 1, 1998. The bill is effective upon enactment.

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SENATE FILE 2416

AN ACT

RELATING TO THE REPLACEMENT OF PROPERTY TAX ON PROPERTY ASSOCIATED WITH ELECTRICITY AND NATURAL GAS WITH EXCISE TAXES ASSOCIATED WITH ELECTRICITY AND NATURAL GAS, ESTABLISHING A STATEWIDE PROPERTY TAX ON PROPERTY ASSOCIATED WITH ELECTRICITY AND NATURAL GAS, PROVIDING FOR A SPECIAL UTILITY PROPERTY TAX LEVY OR TAX CREDIT, PROVIDING FOR THE ACT'S RETROACTIVE APPLICABILITY, PROVIDING AN EFFECTIVE DATE, AND PROVIDING PENALTIES.

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

DIVISION I -- INTRODUCTORY PROVISION

Section 1. LEGISLATIVE FINDINGS. The general assembly finds that with the advent of restructuring of the electric and natural gas utility industry, a competitive environment will replace the current regulated monopoly environment. Currently, utility companies are subject to property taxes which are levied in various amounts with respect to utility property located in areas serviced by the utility companies. If the property tax, as currently levied, continues, the property tax costs in Iowa will become a factor among competitors in the pricing of electricity and natural gas. Moreover, non-Iowa located electricity and natural gas suppliers do not have property in Iowa subject to property tax and to the extent that they are located in a low property tax state, such property tax costs would grant to such non-Iowa suppliers an unfair tax advantage over Iowa-based utility companies.

The general assembly also finds that restructuring may result in the loss of in-lieu-of-tax transfers from surplus funds made by a municipal utility to the city. These transfers take the place of a property tax and are recognized

in this Act as such.

Therefore, the general assembly finds that a need exists to replace the current Iowa property tax system levied on electric and natural gas utility companies located in Iowa. However, any replacement tax needs to be revenue neutral so as not to harm the fiscal stability of local governments which depend upon such utility property taxes and municipal transfers, and further, so as to negate tax costs as a factor in a competitive utility industry environment. Additionally, such replacement tax must allow fair and competitive prices for consumers of electric and natural gas services, and minimize the impact on the cost of such services to consumers.

The general assembly, therefore, finds that the replacement tax should be imposed on the generation, transmission, and delivery of electricity and natural gas. Statewide generation and transmission taxes are necessary to ensure that in the event such functions are conducted by stand-alone generation and transmission companies, such companies will continue to contribute to the tax base. However, imposition of a single statewide delivery tax rate would unfairly increase tax costs for some taxpayers while reducing such costs for others. Such a result would impede a competitive environment and disrupt the tax continuity for taxpayers, and has the potential to unnecessarily increase costs for consumers of gas and electricity. Therefore, to maintain tax continuity and tax revenues for local government and to maintain tax continuity and negate tax costs as a factor in a competitive environment for taxpayers and consumers, the delivery tax rates should be fixed by geographic service areas which are designed and structured to accomplish these goals.

The current property tax valuation process for utility companies is complex and time-consuming to administer. The replacement tax eases this administrative burden on state government.

Replacing the current system of property taxes levied on electric and natural gas utility companies located in Iowa with a system of excise taxes associated with electricity and natural gas represents a significant change in the method of taxing electric and natural gas utility companies. Due to the importance of the revenues generated by these taxes to local taxing districts, the general assembly finds it desirable to implement this new system of taxation in advance of the impending restructuring of the electric and natural gas industry to ensure that the new system of taxation performs as intended.

#### SUBCHAPTER 1

##### INTRODUCTORY PROVISIONS

#### Sec. 2. NEW SECTION. 437A.1 CLASSIFICATION OF CHAPTER.

The provisions of this chapter are classified and designated as follows:

- Subchapter 1     Introductory Provisions.
- Subchapter 2     Generation, Transmission, and Delivery Taxes.
- Subchapter 3     Statewide Property Tax.
- Subchapter 4     General Provisions.

#### Sec. 3. NEW SECTION. 437A.2 PURPOSES.

The purposes of this chapter are to replace property taxes imposed on electric companies, natural gas companies, electric cooperatives, and municipal utilities with a system of taxation which will remove tax costs as a factor in a competitive environment by imposing like generation, transmission, and delivery taxes on similarly situated competitors who generate, transmit, or deliver electricity or natural gas in the same competitive service area, to preserve revenue neutrality and debt capacity for local governments and taxpayers, to preserve neutrality in the allocation and cost impact of any replacement tax among and upon consumers of electricity and natural gas in this state, and to provide a system of taxation which reduces existing administrative burdens on state government.

#### Sec. 4. NEW SECTION. 437A.3 DEFINITIONS.

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

1. "Assessed value" means the base year assessed value, as adjusted by section 437A.19, subsection 2. "Base year assessed value", for a taxpayer other than an electric company, natural gas company, or electric cooperative, means the value attributable to property identified in section 427A.1, subsection 1, paragraph "h", certified by the department of revenue and finance to the county auditors for the assessment date of January 1, 1997, and the value attributable to property identified in section 427A.1 and section 427B.17, subsection 5, as certified by the local assessors to the county auditors for the assessment date of January 1, 1997.

For taxpayers that are electric companies, natural gas companies, and electric cooperatives, "base year assessed value" means the average of the total of these values for each taxpayer for the assessment dates of January 1, 1993, through January 1, 1997, allocated among taxing districts in proportion to the allocation of the taxpayer's January 1, 1998, assessed value among taxing districts. "Base year assessed value" does not include value attributable to steam-operating property.

2. "Centrally assessed property tax" means property tax imposed with respect to the value of property determined by the director pursuant to section 427.1, subsection 2, section 428.29, chapter 437, and chapter 438, Code 1997, and allocated to electric service and natural gas service. For purposes of this subsection, "natural gas service" means such service provided by natural gas pipelines permitted pursuant to chapter 479.

3. "Consumer" means an end user of electricity or natural gas used or consumed within this state. "Consumer" includes any master-metered facility even though the electricity or

natural gas delivered to such facility may ultimately be used by another person. A person to whom electricity or natural gas is delivered by a master-metered facility is not a consumer. A "master-metered facility" means any multi-occupancy premises where units are separately rented or owned and where electricity or natural gas is used in centralized heating, cooling, water-heating, or ventilation systems, where individual metering is impractical, where the facility is designated for elderly or handicapped persons and utility costs constitute part of the operating cost and are not apportioned to individual units, or where submetering or resale of service was permitted prior to 1966.

4. "Delivery" means the physical transfer of electricity or natural gas to a consumer. Physical transfer to a consumer occurs when transportation of electricity or natural gas ends and such electricity or natural gas becomes available for use or consumption by a consumer.

5. "Director" means the director of revenue and finance.

6. "Electric company" means a person engaged primarily in the production, delivery, service, or sales of electric energy whether formed or organized under the laws of this state or elsewhere. "Electric company" includes a combination natural gas company and electric company. "Electric company" does not include an electric cooperative or a municipal utility.

7. "Electric competitive service area" means an electric service area assigned by the utilities board under chapter 476 as of January 1, 1999, including utility property and facilities described in section 476.23, subsection 3, which were owned and served by the electric company, electric cooperative, or municipal utility serving such area on January 1, 1999.

8. "Electric cooperative" means an electric utility provider formed or organized as an electric cooperative under the laws of this state or elsewhere. An electric cooperative shall also include an incorporated city utility provider.

"Generation and transmission electric cooperative" means an electric cooperative which owns both transmission lines and property which is used to generate electricity. "Distribution electric cooperative" means an electric cooperative other than a generation and transmission electric cooperative or a municipal electric cooperative association.

9. "Electric power generating plant" means a nameplate rated electric power generating plant, which produces electric energy from other forms of energy, including all taxable land, buildings, and equipment used in the production of such electric energy.

10. "Incorporated city utility provider" means a corporation with assets worth one million dollars or more which has one or more platted villages located within the territorial limits of the tract of land which it owns, and which provides electricity to ten thousand or fewer customers.

11. "Lease" means a contract between a lessor and lessee pursuant to which the lessee obtains a present possessory interest in tangible property without obtaining legal title in such property. A contract to transmit or deliver electricity or natural gas using operating property within this state is not a lease. "Capital lease" means a lease classified as a capital lease under generally accepted accounting principles.

12. "Local amount" means the first forty-four million four hundred forty-four thousand four hundred forty-five dollars of the acquisition cost of any major addition which is an electric power generating plant and the total acquisition cost of any other major addition.

13. "Local taxing district" means a city, county, community college, school district, or other taxing district, located in this state and authorized to certify a levy on property located within such district for the payment of bonds and interest or other obligations of such district.

14. "Low capacity factor electric power generating plant" means, for any tax year, an electric power generating plant,

with the exception of an electric power generating plant owned or leased by an electric company, an electric cooperative, or a municipal utility, which operated during the preceding calendar year at a net capacity factor of twenty percent or less. "Net capacity factor" means net actual generation during the preceding calendar year divided by the product of nameplate capacity times the number of hours the plant was in the active state during the preceding calendar year. Upon commissioning, a plant is in the active state until it is decommissioned. "Net actual generation" means net electrical megawatt hours produced by a plant during the preceding calendar year.

15. "Major addition" means any acquisition on or after January 1, 1998, by a taxpayer, by transfer of ownership, self-construction, or capital lease of any interest in any of the following:

a. A building in this state where the acquisition cost of all interests acquired exceeds ten million dollars.

b. An electric power generating plant where the acquisition cost of all interests acquired exceeds ten million dollars. For purposes of this paragraph, "electric power generating plant" means each nameplate rated electric power generating plant owned solely or jointly by any person or electric power facility financed under the provisions of chapter 28F in which electrical energy is produced from other forms of energy, including all equipment used in the production of such energy through its step-up transformer.

c. Natural gas operating property within a local taxing district where the acquisition cost of all interests acquired exceeds one million dollars.

d. Any operating property in this state by a person not previously subject to taxation under this chapter.

For purposes of this chapter, the acquisition cost of an asset acquired by capital lease is its capitalized value determined under generally accepted accounting principles.

16. "Municipal electric cooperative association" means an electric cooperative, the membership of which is composed entirely of municipal utilities.

17. "Municipal utility" means all or part of an electric light and power plant system or a natural gas system, either of which is owned by a city, including all land, easements, rights-of-way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the municipal utility.

18. "Natural gas company" means a person that owns, operates, or is engaged primarily in operating or utilizing pipelines for the purpose of distributing natural gas to consumers located within this state, excluding a gas distributing plant or company located entirely within any city and not a part of a pipeline transportation company. "Natural gas company" includes a combination natural gas company and electric company. "Natural gas company" does not include a municipal utility.

19. a. "Natural gas competitive service area" means any of the fifty-two natural gas competitive service areas described as follows:

(1) Each of the following municipal natural gas competitive service areas:

(a) Taylor county, except for those areas of Taylor county which are contained within another municipal natural gas competitive service area as described in this subsection.

(b) The city of Brighton in Washington county and the area within two miles of the city limits plus sections 5, 6, 7, 8, 17, 18, 19, 20, 29, and 30 in Brighton township; sections 19, 30, and 33 in Franklin township; sections 1, 2, 11, 12, 13, 14, 23, 24, 25, and 36 in Dutch Creek township; and sections 25, 26, 35, and 36 in Seventy-Six township.

(c) Davis county.

(d) The city of Brooklyn in Poweshiek county and the area within two miles of the city limits.

(e) The city of Cascade in Dubuque county and the area within two miles of the city limits.

(f) The city of Cedar Falls in Black Hawk county and the area within one mile of the city limits, not including any part of the city of Waterloo.

(g) The city of Clearfield in Taylor county and the area within two miles of the city limits and sections 20, 21, 26, and 27 of Platte township, Grant township in Taylor county, and Grant township in Ringgold county.

(h) The south half of Carroll county and sections 3 and 4 of Orange township in Guthrie county.

(i) Adams county, except those areas of Adams county which are contained within another municipal natural gas competitive service area as defined in this subsection.

(j) The city of Emmetsburg in Palo Alto county and the area within two miles of the city limits.

(k) The city of Everly, in Clay county and the area within two miles of the city limits.

(l) The city of Fairbank and the area within two miles of the city limits plus the area one-quarter mile on either side of the county line road, Highway 281, from Fairbank to the intersection of Outer Road and Tenth Street, proceeding twenty-eight hundredths of a mile north in Buchanan and Fayette counties.

(m) The city of Gilmore City in Pocahontas and Humboldt counties and the area within two miles of the city limits.

(n) The city of Graettinger in Palo Alto county and the area within two miles of the city limits.

(o) The city of Guthrie Center, in Guthrie county and the area within one mile of the city limits.

(p) The city of Harlan in Shelby county and the area within two miles of the city limits.

(q) The city of Hartley in O'Brien county and the area within one mile of the city limits, except the eastern one-half of section four in Omega township.

(r) The city of Hawarden in Sioux county and the area within two miles of the city limits.

(s) The city of Lake Park plus Silver Lake township in Dickinson county.

(t) Fayette and New Buda townships in Decatur county.

(u) The city of Lenox in Taylor county including section 1 of Platte township in Taylor county and the townships of Carl, Grant, Mercer, Colony, Union, and Prescott in Adams county.

(v) Grand River township in Wayne county.

(w) New Hope township in Union county and Monroe township in Madison county.

(x) Ewoldt and Eden townships in Carroll county and Iowa township in Crawford county.

(y) The city of Montezuma in Poweshiek county and the area within two miles of the city limits plus Jackson township in Poweshiek county except the city of Barnes City, Pleasant Grove and Monroe townships in Mahaska county except the city of Barnes City.

(z) Morning Sun township in Louisa county.

(aa) Wells and Washington townships in Appanoose county.

(ab) The city of Osage in Mitchell county and the area within two miles of the city limits.

(ac) The city of Prescott in Adams county and the area within two miles of the city limits.

(ad) The city of Preston in Jackson county and the area within two miles of the city limits.

(ae) The city of Remsen in Plymouth county and the area within two miles of the city limits.

(af) The city of Rock Rapids in Lyon county and the area within two miles of the city limits.

(ag) The city of Rolfe in Pocahontas county and the area within two miles of the city limits.

(ah) The city of Sabula in Jackson county and the area within two miles of the city limits.

- (ai) The city of Sac City in Sac county and the area within two miles of the city limits.
- (aj) The city of Sanborn in O'Brien county and the area within two miles of the city limits.
- (ak) The city of Sioux Center in Sioux county and the area within two miles of the city limits.
- (al) The city of Tipton in Cedar county and the area within two miles of the city limits.
- (am) The city of Waukee in Dallas county.
- (an) The city of Wayland plus Jefferson and Trenton townships in Henry county.
- (ao) Seventy-Six and Lime Creek townships in Washington county except for those areas of Seventy-Six township which are contained within another municipal natural gas competitive service area as defined in this subsection.
- (ap) The city of West Bend in Kossuth and Palo Alto counties and the area within two miles of the city limits.
- (aq) The city of Whittemore in Kossuth county and the area within two miles of the city limits.
- (ar) Scott, Canaan, and Wayne townships in Henry county.
- (as) The city of Woodbine in Harrison county and the area within two miles of the city limits.
- (at) Nishnabotna township in Crawford county.
- (2) The natural gas competitive service area, excluding any municipal natural gas competitive service area described in subparagraph (1) and consisting of Sioux county; Plymouth county; Woodbury county; Ida county; Harrison county; Shelby county; Audubon county; Palo Alto county; Humboldt county; Mahaska county; Scott county; Lyon county except Wheeler, Dale, Liberal, Grant, Midland, and Elgin townships; O'Brien county except Union, Dale, Summit, Highland, Franklin, and Center townships; Cherokee county except Cherokee and Pilot townships; Monona county except Franklin township and the south half of Ashton township; Pottawattamie county except Crescent, Hazel Dell, Lake, Garner, Kane, and Lewis townships;

Mills county except Glenwood and Center townships; Montgomery county except Douglas, Washington, and East townships; Page county except Valley, Douglas, Nodaway, Nebraska, Harlan, East River, Amity, and Buchanan townships; Fremont county except Green, Scott, Sidney, Benton, Washington, and Madison townships; Brighton and Pleasant townships in Cass county; Sac county except Clinton, Wall Lake, Coon Valley, Levey, Viola, and Sac townships; Newell township in Buena Vista county; Calhoun county except Reading township; Denmark township in Emmet county; Kossuth county except Eagle, Grant, Springfield, Hebron, Swea, Harrison, Ledyard, Lincoln, Seneca, Greenwood, Ramsey, and German townships; Webster county except Roland, Clay, Burnside, Yell, Webster, Gowrie, Lost Grove, Dayton, and Hardin townships; Guthrie county except Grant, Thompson, and Beaver townships; Union township in Union county; Madison county except Ohio and New Hope townships; Warren county except Virginia, Squaw, Liberty, and White Breast townships; Cedar, Union, Bluff Creek, and Pleasant townships in Monroe county; Marion county except Lake Prairie, Knoxville, Summit, and Union townships; Dallas county except Des Moines and Grant townships; Polk county except sections 4, 5, 6, 7, 8, 9, 16, 17, and 18 in Lincoln township and the city of Grimes, and sections 1, 2, 3, 10, 11, 12, 13, 14, and 15 in Union township; Poweshiek, Washington, Mound Prairie, Des Moines, Elk Creek, and Fairview townships in Jasper county; Wright county except Belmont and Pleasant townships; Geneseo township in Cerro Gordo county; Franklin county except Wisner and Scott townships and the city of Coulter; Butler county except Bennezzette, Coldwater, Dayton, and Fremont townships; Floyd county except Rock Grove, Rudd, Rockford, Ulster, Scott, and Union townships; Branford township in Chickasaw county; Bremer county except Frederika, LeRoy, Sumner No. 2, Fremont, Dayton, Maxfield, and Franklin townships; Perry, Washington, Westburg, and Sumner townships in Buchanan county; Black Hawk county except Big Creek township; Fremont township in Benton county;



Wapello county except Washington township; Benton and Steady Run townships in Keokuk county; the city of Barnes City in Poweshiek county; Iowa township in Washington county; Johnson county except Fremont township; Linn county except Grant Spring Grove, Jackson, Boulder, Washington, Monroe township west and north of Otter Creek and County Home Road, Otter Creek, Maine, Buffalo, Fayette, and Clinton townships; Farmington township in Cedar county; Wapainonoc, Goshen, Moscow, Milton, and Fulton townships in Muscatine county; and Lee county except Des Moines, Montrose, Keokuk, and Jackson townships.

(3) The natural gas competitive service area, excluding any municipal natural gas competitive service areas described in subparagraph (1) and consisting of that part of Kossuth county not described in subparagraph (2); Lincoln and Buffalo townships in Winnebago county; Worth county except Silver Lake, Hartland, Bristol, Brookfield, Fertile, and Danville townships; Cerro Gordo county except Grimes, Pleasant Valley, and Dougherty townships; Rock Grove and Rudd townships in Floyd county; Eden, Camanche, and Hampshire townships and the city of Clinton in Clinton county; and Stacyville and Union townships in Mitchell county.

(4) The natural gas competitive service area, excluding any municipal natural gas service areas described in subparagraph (1) and consisting of Franklin township and the South Half of Ashton township in Monona county; Crescent, Hazel Dell, Lake, Garner, Kane, and Lewis townships in Pottawattamie county; Glenwood and Center townships in Mills county; Green, Scott, Sidney, Benton, Washington, and Madison townships in Fremont county; Cass, Bear Grove, Union, Noble, Edna, Victoria, Massena, Lincoln, and Grant townships in Cass county; Glidden township in Carroll county; Summit township in Adair county; Grant township in Guthrie county; Crawford county except Nishnabotna township; Clinton, Wall Lake, Coon Valley, Levey, Viola, and Sac township in Sac county; Reading

township in Calhoun county; Marshall, Sherman, Roosevelt, Dover, Grant, Lincoln, and Cedar townships in Pocahontas county; Union, Dale, Summit, Highland, Franklin, and Center townships in O'Brien county; the north half of Clay county plus Clay township; Dickinson county; Emmet county except Denmark, Armstrong Grove, and Iowa Lake townships; Greene county except Bristol, Hardin, Jackson, and Grant townships; Boone county except Worth, Colfax, Des Moines, Jackson, Dodge, and Harrison townships; Des Moines and Grant townships in Dallas county; Roland, Clay, Burnside, Yell, Webster, Gowrie, Lost Grove, Dayton, and Newark townships in Webster county; Clear Lake, Hamilton, Webster, Freedom, Independence, Cass, and Fremont townships in Hamilton county; Ell, Madison, and Ellington townships in Hancock county; Winnebago county except Lincoln and Buffalo townships; Silver Lake, Hartland, Bristol, Brookfield, Fertile, and Danville townships in Worth county; Etna township in Hardin county; Lafayette township and the west one-half of Howard township in Story county; the city of Grimes in Polk county; Independence, Malaka, Mariposa, Hickory Grove, Rock Creek, Kellogg, Newton, Sherman, Palo Alto, Buena Vista, and Richland townships in Jasper county; Palermo, Grant, and Fairfield townships in Grundy county; Bennezzette, Coldwater, Dayton, and Fremont townships in Butler county; Rockford, Ulster, Scott, and Union townships in Floyd county; St. Ansgar and Mitchell townships in Mitchell county; Howard county; Chickasaw county except Branford township; Frederika, LeRoy, Sumner No. 2, Fremont, Dayton, Maxfield, and Franklin townships in Bremer county; Big Creek township in Black Hawk county; Brown township in Linn county; Madison township and the east half of Buffalo township in Buchanan county; Fayette county except Harlan, Fremont, Oran, and Jefferson townships; Winneshiek county; Alameda county; Clayton county; Delaware county except Adams and Hazel Green townships; Dubuque county; Jones county except Rome, Hale, Oxford, and the east half of Greenfield townships; and Jackson county.

(5) The natural gas competitive service area consisting of Des Moines, Montrose, Keokuk, and Jackson townships in Lee county.

(6) The natural gas competitive service area consisting of the city of Allerton and the area within two miles of the city limits.

(7) The natural gas competitive service area consisting of all of Iowa not contained in any of the other natural gas competitive service areas described in this paragraph.

b. "Township" includes any city or part of a city located within the exterior boundaries of that township.

c. References to city limits contained in this subsection mean those city limits as they existed on January 1, 1999.

20. "Operating property" means all property owned by or leased to an electric company, electric cooperative, municipal utility, or natural gas company, not otherwise taxed separately, which is necessary to and without which the company could not perform the activities of an electric company, electric cooperative, municipal utility, or natural gas company.

21. "Pole miles" means miles measured along the line of poles, structures, or towers carrying electric conductors regardless of the number of conductors or circuits carried, and miles of conduit bank, regardless of number of conduits or ducts, of all sizes and types, including manholes and handholes. "Conduit bank" means a length of one or more underground conduits or ducts, whether or not enclosed in concrete, designed to contain underground cables, including a gallery or cable tunnel for power cables.

22. "Purchasing member" means a municipal utility which purchases electricity from a municipal electric cooperative association of which it is a member.

23. "Replacement tax" means the excise tax imposed on the generation, transmission, delivery, consumption, or use of electricity or natural gas under sections 437A.4, 437A.5, 437A.6, or 437A.7.

24. "Self-generator" means a person, other than an electric company, natural gas company, electric cooperative, or municipal utility, who generates, by means of an on-site facility wholly owned by or leased in its entirety to such person, electricity solely for its own consumption, except for inadvertent unscheduled deliveries to the electric utility furnishing electric service to that self-generator. A person who generates electricity which is consumed by any other person, including any owner, shareholder, member, beneficiary, partner, or associate of the person who generates electricity, is not a self-generator. For purposes of this subsection, "on-site facility" means an electric power generating plant that is wholly owned by or leased in its entirety to a person and used to generate electricity solely for consumption by such person on the same parcel of land on which such plant is located or on a contiguous parcel of land. For purposes of this subsection, "parcel of land" includes each separate parcel of land shown on the tax list.

25. "Statewide amount" means the acquisition cost of any major addition which is not a local amount.

26. "Taxpayer" means an electric company, natural gas company, electric cooperative, municipal utility, or other person subject to the replacement tax imposed under section 437A.4, 437A.5, 437A.6, or 437A.7.

27. "Tax year" means a calendar year beginning January 1 and ending December 31.

28. "Transfer replacement tax" means the tax imposed in a competitive service area of a municipal utility which replaces transfers made by the municipal utility in accordance with section 384.89.

29. "Transmission line" means a line, wire, or cable which is capable of operating at an electric voltage of at least thirty-four and one-half kilovolts.

30. "Utilities board" means the utilities board created in section 474.1.

SUBCHAPTER 2

GENERATION, TRANSMISSION, AND DELIVERY TAXES

Sec. 5. NEW SECTION. 437A.4 REPLACEMENT TAX IMPOSED ON DELIVERY OF ELECTRICITY.

1. A replacement delivery tax is imposed on every person who makes a delivery of electricity to a consumer within this state. The replacement delivery tax imposed by this section is equal to the sum of the following:

a. The number of kilowatt-hours of electricity delivered to consumers by the taxpayer within each electric competitive service area during the tax year multiplied by the electric replacement delivery tax rate in effect for each such electric competitive service area.

b. Where applicable, and in addition to the tax imposed by paragraph "a", the number of kilowatt-hours of electricity delivered to consumers by the taxpayer within each electric competitive service area during the tax year multiplied by the electric transfer replacement tax rate for each such electric competitive service area.

2. If electricity is consumed in this state, whether such electricity is purchased, transferred, or self-generated, and the delivery, purchase, transference, or self-generation of such electricity is not subject to the tax imposed under subsection 1, a tax is imposed on the consumer at the rates prescribed under subsection 1.

3. Electric replacement delivery tax rates shall be calculated by the director for each electric competitive service area as follows:

a. The director shall determine the average centrally assessed property tax liability allocated to electric service of each taxpayer, other than a municipal utility, principally serving an electric competitive service area and of each generation and transmission electric cooperative for the assessment years 1993 through 1997 based on property tax payments made. In the case of a municipal utility, the

average centrally assessed property tax liability allocated to electric service is the centrally assessed property tax liability of such municipal utility allocated to electric service for the 1997 assessment year based on property tax payments made.

b. The director shall determine, for each taxpayer, the number of kilowatt-hours of electricity generated which would have been subject to taxation under section 437A.6, the number of pole miles which would have been subject to taxation under section 437A.7, and the number of kilowatt-hours of electricity delivered to consumers which would have been subject to taxation under this section in calendar year 1998, had such sections been in effect for calendar year 1998.

c. The director shall determine the electric generation, transmission, and delivery tax components of the average centrally assessed property tax liability determined in paragraph "a" for each electric competitive service area as follows:

(1) The electric generation tax component for an electric competitive service area shall be computed by multiplying the tax rate set forth in section 437A.6 by the number of kilowatt-hours of electricity generated by the taxpayer principally serving such electric competitive service area which would have been subject to taxation under section 437A.6 in calendar year 1998, had that section been in effect for calendar year 1998.

(2) The electric transmission tax component for an electric competitive service area shall be computed by multiplying the tax rates set forth in section 437A.7 by the number of pole miles for each line voltage owned or leased by the taxpayer principally serving such electric competitive service area which would have been subject to taxation under section 437A.7 on December 31, 1998, had that section been in effect for calendar year 1998.

(3) The electric delivery tax component for an electric competitive service area shall be the average centrally assessed property tax liability allocated to electric service of the taxpayer principally serving such electric competitive service area less the electric generation and transmission tax components computed for such electric competitive service area.

(4) The electric delivery tax component for each electric competitive service area shall be adjusted, as necessary, to assign the excess property tax liability of each generation and transmission electric cooperative to the electric competitive service areas principally served on January 1, 1999, by its distribution electric cooperative members and by those municipal utilities which were purchasing members of a municipal electric cooperative association that is a member of the generation and transmission electric cooperative. Such assignment of excess property tax liability of each such generation and transmission electric cooperative shall be made in proportion to the appropriate wholesale rate charges in calendar year 1998 to its distribution electric cooperative members and municipal electric cooperative association members which purchased electricity from the generation and transmission electric cooperative. Any amount assignable to a municipal electric cooperative association shall be reassigned to the electric competitive service areas served by such association's purchasing municipal utility members and shall be allocated among them in proportion to the appropriate wholesale rate charges in calendar year 1998 by such municipal electric cooperative association to its purchasing municipal utility members. For purposes of this subsection, "excess property tax liability" means the amount by which the average centrally assessed property tax liability for the assessment years 1993 through 1997 of a generation and transmission electric cooperative exceeds the tentative generation and transmission taxes which would have been imposed on such

generation and transmission electric cooperative under sections 437A.6 and 437A.7 for calendar year 1998, had such taxes been in effect for calendar year 1998. An electric cooperative described in section 437A.7, subsection 2, paragraph "c", is deemed not to have any excess property tax liability.

d. The director shall determine an electric delivery tax rate for each electric competitive service area by dividing the electric delivery tax component for the electric competitive service area, as adjusted by paragraph "c", subparagraph (4), by the number of kilowatt-hours delivered by the taxpayer principally serving the electric competitive service area to consumers in calendar year 1998, which would have been subject to taxation under this section if this section had been in effect for calendar year 1998.

4. Municipal electric transfer replacement tax rates shall be calculated annually by the city council of each city located within an electric competitive service area served by a municipal utility as of January 1, 1999, by dividing the average annual dollar amount of electric related transfers made pursuant to section 384.89 by the municipal utility serving the electric competitive service area, other than those transfers declared exempt from the transfer replacement tax by the city council, plus the municipal transfer replacement tax received by the municipality, if any, during the five immediately preceding calendar years by the number of kilowatt-hours of electricity delivered to consumers in the electric competitive service area during the immediately preceding calendar year which were subject to taxation under this section or which would have been subject to taxation under this section had it been in effect for such calendar year. The city council on its own motion, or in the case of a municipal utility governed by a board of trustees under chapter 388 upon a resolution of the board of trustees requesting such action, may declare any transfer or part of

such transfer to be exempt from the transfer replacement tax under this section. Such rates shall be calculated and reported to the director on or before August 31 of each tax year.

5. A municipal utility taxpayer is entitled to a credit against the municipal electric transfer replacement tax equal to the average amount of electric-related transfers made by such municipal utility taxpayer under section 384.89, other than those transfers declared exempt from transfer replacement tax by the city council, during the preceding five calendar years.

6. The following are not subject to the replacement delivery tax imposed by subsections 1 and 2:

a. Delivery of electricity generated by a low capacity factor electric power generating plant.

b. Delivery of electricity to a city from such city's municipal utility, provided such electricity is used by the city for the public purposes of the city.

c. Electricity consumed by a state university or university of science and technology, provided such electricity was generated by property described in section 427.1, subsection 1.

d. Electricity generated and consumed by a self-generator.

7. Notwithstanding subsection 1, the electric delivery tax rate applied to kilowatt-hours of electricity delivered by a taxpayer to utility property and facilities which are placed in service on or after January 1, 1999, and are owned by or leased to and initially served by such taxpayer shall be the electric delivery tax rate in effect for the electric competitive service area principally served by such utility property and facilities even though such utility property and facilities may be physically located in another electric competitive service area.

8. If for any tax year after calendar year 1998, the total taxable kilowatt-hours of electricity required to be reported

by taxpayers pursuant to section 437A.8, subsection 1, paragraphs "a" and "b", with respect to any electric competitive service area, increases or decreases by more than the threshold percentage from the average of the base year amounts for that electric competitive service area during the immediately preceding five calendar years, the tax rate imposed under subsection 1, paragraph "a", and subsection 2, for that tax year shall be recalculated by the director for that electric competitive service area so that the total of the replacement electric delivery taxes required to be reported pursuant to section 437A.8, subsection 1, paragraph "e", for that electric competitive service area with respect to the tax imposed under subsection 1, paragraph "a", and subsection 2, shall be as follows:

a. If the number of kilowatt-hours of electricity required to be reported increased by more than the threshold percentage, one hundred two percent of such taxes required to be reported by taxpayers for that electric competitive service area for the immediately preceding tax year.

b. If the number of kilowatt-hours of electricity required to be reported decreased by more than the threshold percentage, ninety-eight percent of such taxes required to be reported by taxpayers for that electric competitive service area for the immediately preceding tax year.

For purposes of paragraphs "a" and "b", in computing the tax rate under subsection 1, paragraph "a", and subsection 2, for tax year 1999, the director shall use the electric delivery tax component computed for the electric competitive service area pursuant to subsection 3, paragraph "c", in lieu of the taxes required to be reported for that electric competitive service area for the immediately preceding tax year.

The threshold percentage shall be determined annually and shall be eight percent for any electric competitive service area in which the average of the base year amounts for the

preceding five calendar years does not exceed three billion kilowatt-hours, and ten percent for all other electric competitive service areas.

Any such recalculation of an electric delivery tax rate, if required, shall be made and the new rate shall be published in the Iowa administrative bulletin by the director by no later than May 31 following the tax year. The director shall adjust the tentative replacement tax imposed by subsection 1, paragraph "a", and subsection 2 required to be shown on any affected taxpayer's return pursuant to section 437A.8, subsection 1, paragraph "e", to reflect the adjusted delivery tax rate for the tax year, and report such adjustment to the affected taxpayer on or before June 30 following the tax year. The new electric delivery tax rate shall apply prospectively, until such time as further adjustment is required.

For purposes of this section, "base year amount" means for calendar years prior to tax year 1999, the sum of the kilowatt-hours of electricity delivered to consumers within an electric competitive service area by the taxpayer principally serving such electric competitive service area which would have been subject to taxation under this section had this section been in effect for those years; and for tax years after calendar year 1998, the taxable kilowatt-hours of electricity required to be reported by taxpayers pursuant to section 437A.8, subsection 1, paragraphs "a" and "b", with respect to any electric competitive service area.

9. a. After calendar year 1998, if a municipal electric cooperative association ceases to purchase electricity from the generation and transmission electric cooperative from which it purchased electricity in 1998, and for a period of one hundred eighty days after such purchases cease, no municipal utility member of such association purchases electricity from such generation and transmission electric cooperative, the excess property tax liability assigned pursuant to subsection 3, paragraph "c", subparagraph (4), to

the electric competitive service areas principally served by the municipal utility members on January 1, 1999, shall be removed from the electric delivery tax component of those electric competitive service areas and the electric delivery tax rate for those electric competitive service areas shall be recalculated to reflect that change.

b. After calendar year 1998, if a municipal utility ceases to be a purchasing member of a municipal electric cooperative association which purchased electricity in calendar year 1998 from a generation and transmission electric cooperative, and for a period of one hundred eighty days after the municipal utility ceases to be a purchasing member of such association such municipal utility does not purchase electricity from such generation and transmission electric cooperative, the excess property tax liability assigned pursuant to subsection 3, paragraph "c", subparagraph (4), to the electric competitive service area principally served by the municipal utility on January 1, 1999, shall be removed from the electric delivery tax component of those electric competitive service areas and the electric delivery tax rate for those electric competitive service areas shall be recalculated to reflect that change.

c. If a recalculation has previously been made by the director pursuant to subsection 8 for an electric competitive service area described in this subsection, the recalculation required by this subsection shall be made by the director by modifying the most recent recalculation under subsection 8 to eliminate the excess property tax liability originally allocated to such electric competitive service area under subsection 3, paragraph "c", subparagraph (4).

d. Any recalculation required by this subsection shall be made and the new rate shall be published in the Iowa administrative bulletin by the director by May 31 of the calendar year during which the events described in paragraphs "a" and "b" are reported as provided in section 437A.8, subsection 1, paragraph "f". The new electric delivery tax

rate shall be effective January 1 of the tax year in which it is published and shall apply prospectively, until such time as further adjustment is required.

10. The electric delivery tax rate in effect for each electric competitive service area shall be published by the director in the Iowa administrative bulletin on or before November 30, 1999, and annually after that date, during the last quarter of the tax year.

Sec. 6. NEW SECTION. 437A.5 REPLACEMENT TAX IMPOSED ON DELIVERY OF NATURAL GAS.

1. A replacement delivery tax is imposed on every person who makes a delivery of natural gas to a consumer within this state. The replacement delivery tax imposed by this section shall be equal to the sum of the following:

a. The number of therms of natural gas delivered to consumers by the taxpayer within each natural gas competitive service area during the tax year multiplied by the natural gas delivery tax rate in effect for each such natural gas competitive service area.

b. Where applicable, and in addition to the tax imposed by paragraph "a", the number of therms of natural gas delivered to consumers by the taxpayer within each natural gas competitive service area during the tax year multiplied by the municipal natural gas transfer replacement tax rate for each such natural gas competitive service area.

2. If natural gas is consumed in this state, whether such natural gas is purchased or transferred, and the delivery, purchase, or transference of such natural gas is not subject to the tax imposed under subsection 1, a tax is imposed on the consumer at the rates prescribed under subsection 1.

3. Natural gas delivery tax rates shall be calculated by the director for each natural gas competitive service area as follows:

a. The director shall determine the average centrally assessed property tax liability allocated to natural gas

service of each taxpayer, other than a municipal utility, principally serving a natural gas competitive service area for the assessment years 1993 through 1997 based on property tax payments made. In the case of a municipal utility, the average centrally assessed property tax liability allocated to natural gas service is the centrally assessed property tax liability of such municipal utility allocated to natural gas service for the 1997 assessment year based on property tax payments made. For purposes of this subsection, taxpayer does not include a pipeline company defined in section 479A.2.

b. The director shall determine for each taxpayer the number of therms of natural gas delivered to consumers which would have been subject to taxation under this section in calendar year 1998 had this section been in effect for calendar year 1998.

c. The director shall determine a natural gas delivery tax rate for each natural gas competitive service area by dividing the average centrally assessed property tax liability allocated to natural gas service of the taxpayer principally serving the natural gas competitive service area by the number of therms of natural gas delivered by such taxpayer to consumers in calendar year 1998 which would have been subject to taxation under this section had such section been in effect for calendar year 1998.

4. Municipal natural gas transfer replacement tax rates shall be calculated annually by the city council of each city located within a natural gas competitive service area served by a municipal utility as of January 1, 1999, by dividing the average annual dollar amount of natural gas related transfers made pursuant to section 384.89 by the municipal utility serving the natural gas competitive service area, other than those transfers declared exempt from the transfer replacement tax by the city council, plus the municipal transfer replacement tax received by the municipality, if any, during the five immediately preceding calendar years, by the number

of therms of natural gas delivered to consumers in the natural gas competitive service area during the immediately preceding calendar year which were subject to taxation under this section or which would have been subject to taxation under this section had it been in effect for such calendar year. The city council on its own motion, or in the case of a municipal utility governed by a board of trustees under chapter 388 upon a resolution of the board of trustees requesting such action, may declare any transfer or part of such transfer to be exempt from the transfer replacement tax under this section. Such rates shall be calculated and reported to the director on or before August 31 of each tax year.

5. A municipal utility taxpayer is entitled to a credit against the municipal natural gas transfer replacement tax equal to the average amount of natural gas related transfers made by such municipal utility taxpayer under section 384.89, other than those transfers declared exempt from transfer replacement tax by the city council, during the preceding five calendar years.

6. Notwithstanding subsection 1, the natural gas delivery tax rate applied to therms of natural gas delivered by a taxpayer to utility property and facilities which are placed in service on or after January 1, 1999, and which are owned by or leased to and initially served by such taxpayer shall be the natural gas delivery tax rate in effect for the natural gas competitive service area principally served by such utility property and facilities even though such utility property and facilities may be physically located in another natural gas competitive service area.

7. Delivery of natural gas to a city from such city's municipal utility is not subject to the replacement delivery tax imposed under subsection 1, paragraph "a", and subsection 2, provided such natural gas is used by the city for the public purposes of the city.

Section 437A.5, subsection 2, does not apply to natural gas consumed by a person, other than an electric company, natural gas company, electric cooperative, or municipal utility, acquired by means of facilities owned by or leased to such person on January 1, 1999, which were physically attached to pipelines that are not permitted pursuant to chapter 479 and used by such person for the purpose of bypassing the local natural gas company or municipal utility.

8. If, for any tax year after calendar year 1998, the total taxable therms of natural gas required to be reported by taxpayers pursuant to section 437A.8, subsection 1, paragraphs "a" and "b", with respect to any natural gas competitive service area increases or decreases by more than the threshold percentage from the average of the base year amounts for that natural gas competitive service area during the immediately preceding five calendar years, the tax rate imposed under subsection 1, paragraph "a", and subsection 2 for that tax year shall be recalculated by the director for that natural gas competitive service area so that the total of the replacement natural gas delivery taxes required to be reported pursuant to section 437A.8, subsection 1, paragraph "e", for that natural gas competitive service area with respect to the tax imposed under subsection 1, paragraph "a", and subsection 2 shall be as follows:

a. If the number of therms of natural gas required to be reported increased by more than the threshold percentage, one hundred two percent of such taxes required to be reported by taxpayers for that natural gas competitive service area for the immediately preceding tax year.

b. If the number of therms of natural gas required to be reported decreased by more than the threshold percentage, ninety-eight percent of such taxes required to be reported by taxpayers for that natural gas competitive service area for the immediately preceding tax year.



c. For purposes of paragraphs "a" and "b", in computing the tax rate under subsection 1, paragraph "a", and subsection 2 for calendar year 1999, the director shall use the average centrally assessed property tax liability allocated to natural gas service computed for the natural gas competitive service area pursuant to subsection 3, paragraph "a", in lieu of the taxes required to be reported for that natural gas competitive service area for the immediately preceding tax year.

The threshold percentage shall be determined annually and shall be eight percent for any natural gas competitive service area in which the average of the base year amounts for the preceding five calendar years does not exceed two hundred fifty million therms, and ten percent for all other natural gas competitive service areas.

Recalculation of a natural gas delivery tax rate, if required, shall be made and the new rate published in the Iowa administrative bulletin by the director by no later than May 31 following the tax year. The director shall adjust the tentative replacement tax imposed by subsection 1, paragraph "a", and subsection 2 required to be shown on any affected taxpayer's return pursuant to section 437A.8, subsection 1, paragraph "e", to reflect the adjusted delivery tax rate for the tax year, and report such adjustment to the affected taxpayer on or before June 30 following the tax year. The new natural gas delivery tax rate shall apply prospectively, until such time as further adjustment is required.

For purposes of this subsection, "base year amount" means for calendar years prior to tax year 1999, the sum of the therms of natural gas delivered to consumers within a natural gas competitive service area by the taxpayer principally serving such natural gas competitive service area which would have been subject to taxation under this section had this section been in effect for those years; and for tax years after calendar year 1998, the taxable therms of natural gas required to be reported by taxpayers pursuant to section

437A.8, subsection 1, paragraphs "a" and "b", with respect to any natural gas competitive service area.

9. The natural gas delivery tax rate in effect for each natural gas competitive service area shall be published by the director in the Iowa administrative bulletin on or before November 30, 1999, and annually after that date, during the last quarter of the tax year.

Sec. 7. NEW SECTION. 437A.6 REPLACEMENT TAX IMPOSED ON ELECTRIC GENERATION.

1. A replacement generation tax of six hundredths of a cent per kilowatt-hour of electricity generated within this state during the tax year is imposed on every person generating electricity, except electricity generated by the following:

- a. A low capacity factor electric power generating plant.
- b. Facilities owned by or leased to a municipal utility when devoted to public use and not held for pecuniary profit, except facilities of a municipally owned electric utility held under joint ownership or lease and facilities of an electric power facility financed under chapter 28F.
- c. Wind energy conversion property subject to section 427B.26.
- d. Methane gas conversion property subject to section 427.1, subsection 29.
- e. Facilities owned by or leased to a state university or university of science and technology, to the extent electricity generated by such facilities is consumed exclusively by such state university or university of science and technology.
- f. On-site facilities wholly owned by or leased in their entirety to a self-generator.

2. For purposes of this section, if a generation facility is jointly owned or leased, the taxpayer shall compute the number of kilowatt-hours of electricity subject to the replacement generation tax by multiplying the taxpayer's

percentage interest in the jointly held generation facility by the number of kilowatt-hours of electricity generated.

Sec. 8. NEW SECTION. 437A.7 REPLACEMENT TAX IMPOSED ON ELECTRIC TRANSMISSION.

1. A replacement transmission tax is imposed on every person owning or leasing transmission lines within this state and shall be equal to the sum of all of the following:

- a. Five hundred fifty dollars per pole mile of transmission line owned or leased by the taxpayer not exceeding one hundred kilovolts.
- b. Three thousand dollars per pole mile of transmission line owned or leased by the taxpayer greater than one hundred kilovolts but not exceeding one hundred fifty kilovolts.
- c. Seven hundred dollars per pole mile of transmission line owned or leased by the taxpayer greater than one hundred fifty kilovolts but not exceeding three hundred kilovolts.
- d. Seven thousand dollars per pole mile of transmission line owned or leased by the taxpayer greater than three hundred kilovolts.

The replacement transmission tax shall be calculated on the basis of pole miles of transmission line owned or leased by the taxpayer on the last day of the tax year.

2. The following shall not be subject to the replacement transmission tax:

- a. Transmission lines owned by or leased to a municipal utility when devoted to public use and not for pecuniary profit, except transmission lines of a municipally owned electric utility held under joint ownership and transmission lines of an electric power facility financed under chapter 28P.
- b. Transmission lines owned by or leased to a lessor when the lessee or sublessee of such transmission lines is subject to the replacement transmission tax.
- c. Any electric cooperative which owns, leases, or owns and leases in total more than fifty pole miles and less than

seven hundred fifty pole miles of transmission lines in this state. Chapter 437 shall apply to such electric cooperatives.

d. Transmission lines owned by or leased to a state university or university of science and technology, provided such transmission lines are used exclusively for the transmission of electricity consumed by such state university or university of science and technology.

e. Transmission lines owned by or leased to a person, other than a public utility, for which a franchise is not required under chapter 478.

3. For purposes of this section, if a transmission line is jointly owned or leased, the taxpayer shall compute the number of pole miles subject to the replacement transmission tax by multiplying the taxpayer's percentage interest in the jointly held transmission lines by the number of pole miles of such lines.

Sec. 9. NEW SECTION. 437A.8 RETURN AND PAYMENT REQUIREMENTS -- RATE ADJUSTMENTS.

1. Each taxpayer, on or before February 28 following a tax year, shall file with the director a return including, but not limited to, the following information:

a. The total taxable kilowatt-hours of electricity delivered by the taxpayer to consumers within each electric competitive service area during the tax year, and the total taxable therms of natural gas delivered by the taxpayer to consumers within each natural gas competitive service area during the tax year.

b. The total kilowatt-hours of electricity consumed by the taxpayer within each electric competitive service area during the tax year subject to tax under section 437A.4, subsection 2, and the total therms of natural gas consumed by the taxpayer within each natural gas competitive service area during the tax year subject to tax under section 437A.5, subsection 2.

c. The total taxable kilowatt-hours of electricity generated by the taxpayer in Iowa during the tax year.

d. The total taxable pole miles of electric transmission lines in Iowa, by kilovolt, owned or leased by the taxpayer on the last day of the tax year.

e. The tentative replacement taxes imposed by section 437A.4, subsection 1, paragraph "a", section 437A.4, subsection 2, section 437A.5, subsection 1, paragraph "a", section 437A.5, subsection 2, and sections 437A.6 and 437A.7, due for the tax year.

f. For purposes of a municipal utility which is a member of a municipal electric cooperative association, the occurrence on or before September 1 of the preceding calendar year of an event described in section 437A.4, subsection 9, paragraph "a" or "b", and the date on which the one-hundred-eighty-day requirement under such paragraph was met.

2. Each taxpayer subject to a municipal transfer replacement tax, on or before February 28 following a tax year, shall file with the chief financial officer of each city located within an electric or natural gas competitive service area served by a municipal utility as of January 1, 1999, a return including, but not limited to, the following information:

a. The total taxable kilowatt-hours of electricity delivered by the taxpayer within each electric competitive service area described in section 437A.4, subsection 4, during the tax year and the total taxable therms of natural gas delivered by the taxpayer within each natural gas competitive service area described in section 437A.5, subsection 4, during the tax year.

b. For a municipal utility taxpayer, the total transfers made by the taxpayer under section 384.89 within each competitive service area during the preceding calendar year, allocated between electric-related transfers and natural gas-related transfers and total credits described in sections 437A.4, subsection 5, and 437A.5, subsection 5.

c. The transfer replacement taxes imposed by sections 437A.4, subsection 1, paragraph "b", and 437A.5, subsection 1, paragraph "b", due for the tax year.

3. A return shall be signed by an officer, or other person duly authorized by the taxpayer, and must be certified as correct and in accordance with forms and rules prescribed by the director in the case of a return filed pursuant to subsection 1, and in accordance with forms and rules prescribed by the chief financial officer of the city in the case of a return filed pursuant to subsection 2.

4. At the time of filing the return required by subsection 1 with the director, the taxpayer shall calculate the tentative replacement tax due for the tax year. The director shall compute any adjustments to the replacement tax required by subsection 7 and by section 437A.4, subsection 8, and section 437A.5, subsection 8, and notify the taxpayer of any such adjustments in accordance with the requirements of such provisions. The director and the department of management shall compute the allocation of replacement taxes among local taxing districts and report such allocations to county treasurers pursuant to section 437A.15. Based on such allocations, the treasurer of each county shall notify each taxpayer on or before August 31 following a tax year of its replacement tax obligation to the county treasurer. On or before September 30, 2000, and on or before September 30 of each subsequent year, the taxpayer shall remit to the county treasurer of each county to which such replacement tax is allocated pursuant to section 437A.15, one-half of the replacement tax so allocated, and on or before the succeeding March 31, the taxpayer shall remit to the county treasurers the remaining replacement tax so allocated. If notification of a taxpayer's replacement tax obligation is not mailed by a county treasurer on or before August 31 following a tax year, such taxpayer shall have thirty days from the date the notification is mailed to remit one-half of the replacement

tax otherwise required by this subsection to be remitted to such county treasurer on or before September 30. If a taxpayer fails to timely remit replacement taxes as provided in this subsection, the county treasurer of each affected county shall notify the director of such failure.

5. At the time of filing the return required by subsection 2, the taxpayer shall calculate the municipal transfer replacement tax due for the tax year. Municipal transfer replacement taxes shall be paid to the chief financial officer of the city to which the taxes are allocated at such time and place as directed by the city council.

6. Notwithstanding subsections 1 through 5, a taxpayer shall not be required to file a return otherwise required by this section or remit any replacement tax for any tax year in which the taxpayer's replacement tax liability before credits is three hundred dollars or less.

7. Following the determination of electric and natural gas delivery tax rates by the director pursuant to section 437A.4, subsection 3, and section 437A.5, subsection 3, if an adjustment resulting from a taxpayer appeal is made to taxes levied and paid by a taxpayer with respect to any of the assessment years 1993 through 1997 used in determining such rates, the director shall recalculate the delivery tax rate for any affected electric or natural gas competitive service area to reflect the impact of such adjustment as if such adjustment had been reflected in the initial determination of average centrally assessed property tax liability allocated to electric or natural gas service pursuant to section 437A.4, subsection 3, paragraph "a", and section 437A.5, subsection 3, paragraph "a". Rate recalculations shall be made and published in the Iowa administrative bulletin by the director on or before March 31 following the calendar year in which a final determination of the adjustment is made. Taxpayers shall report to the director any increase or decrease in the tentative replacement tax required to be shown to be due

pursuant to subsection 1, paragraph "e", for any tax year with the return for the year in which the recalculated tax rates which gave rise to the adjustment are published in the Iowa administrative bulletin. The director and the department of management shall redetermine the allocation of replacement taxes pursuant to section 437A.15 for each affected tax year. If a taxpayer has overpaid replacement taxes, the overpayment shall be reported by the director to such taxpayer and to the appropriate county treasurers and shall be a credit against the replacement taxes owed by such taxpayer for the year in which the recalculated rates which gave rise to the overpayment are published in the Iowa administrative bulletin. If a taxpayer has overpaid centrally assessed property taxes for assessment years prior to tax year 1999, such overpayment shall be a credit against replacement taxes owed by such taxpayer for the year in which the overpayment is determined. Unused credits may be carried forward and used to reduce future replacement tax liabilities until exhausted.

Sec. 10. NEW SECTION. 437A.9 FAILURE TO FILE RETURN -- INCORRECT RETURN.

1. As soon as practicable after a return required by section 437A.8, subsection 1, is filed, and in any event within three years after such return is filed, the director shall examine the return, determine the tax due if the return is found to be incorrect, and give notice to the taxpayer of the determination as provided in subsection 2. The period for the examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade any tax or in the case of a failure to file a return. The chief financial officer of a city shall have the same authority as is granted to the director under this section with respect to a return filed pursuant to section 437A.8, subsection 2.

2. If a return required by section 437.8, subsection 1, is not filed, or if such return when filed is incorrect or

insufficient and the taxpayer fails to file a corrected or sufficient return within twenty days after such return is required by notice from the director, the director shall determine the amount of tax due from information as the director may be able to obtain and, if necessary, may estimate the tax due on the basis of external indices. The director shall give notice of the determination to the taxpayer liable for the tax and to the county treasurers to whom the tax is owed. The determination shall fix the tax unless the taxpayer against whom it is levied, within sixty days after notice of the determination, applies to the director for a hearing. At the hearing evidence may be offered to support the determination or to prove that it is incorrect. After the hearing the director shall give notice of the decision to the person liable for the tax and to the county treasurers to whom the tax is owed.

3. The three-year period of limitation provided in subsection 1 may be extended by the taxpayer by signing a waiver agreement form provided by the department. The agreement shall stipulate the period of extension and the tax period to which the extension applies. The agreement shall also provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

Sec. 11. NEW SECTION. 437A.10 JUDICIAL REVIEW.

1. Judicial review of the actions of the director may be sought pursuant to chapter 17A, the Iowa administrative procedure Act.

2. For cause and upon a showing by the director that collection of the tax in dispute is in doubt, the court may order the petitioner to file with the clerk of the district court a bond for the use of the appropriate local taxing districts, with sureties approved by the clerk of the district court, in the amount of the tax appealed from, conditioned upon the performance by the petitioner of any orders of the court.

3. An appeal may be taken by the taxpayer or the director to the supreme court irrespective of the amount involved.

4. A person aggrieved by a decision of the chief financial officer of a city under this chapter may seek review by writ of certiorari within thirty days of the decision sought to be reviewed.

Sec. 12. NEW SECTION. 437A.11 LIEN -- ACTIONS AUTHORIZED.

Whenever a taxpayer who is liable to pay a tax imposed by subchapter 2 refuses or neglects to pay such tax, the amount, including any interest, penalty, or addition to such tax, together with the costs that may accrue, shall be a lien in favor of the chief financial officer of the city or the county treasurer to which the tax is owed upon all property and rights to property, whether real or personal, belonging to the taxpayer. The lien shall be prior to and superior over all subsequent liens upon any personal property within this state, or right to such personal property, belonging to the taxpayer, without the necessity of recording the lien. The requirement for recording, as applied to the tax imposed by subchapter 2, shall apply only to a lien upon real property. The lien may be preserved against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any real property situated in a county, by the county treasurer to which replacement tax is owed by filing with the recorder of the county in which the real property is located a notice of the lien. For purposes of the replacement tax collected by a city, the lien may be preserved against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any real property situated in the county, by the chief financial officer of the city to which replacement tax is owed by filing with the recorder of the county in which the real property is located a notice of the lien.

The county recorder of each county shall prepare and keep in the recorder's office a book to be known as the index of replacement tax liens, so ruled as to show in appropriate columns under the names of taxpayers arranged alphabetically, all of the following:

1. The name of the taxpayer.
2. The name of the county treasurer and county or the name of the chief financial officer and city as claimant.
3. Time the notice of lien was received.
4. Date of notice.
5. Amount of lien then due.
6. Date of assessment.
7. Date when the lien is satisfied.

The recorder shall endorse on each notice of lien the day, hour, and minute when received and preserve such notice, and shall promptly record the lien in the manner provided for recording real estate mortgages. The lien is effective from the time of the indexing of the lien.

The county treasurer or chief financial officer of the city shall pay a recording fee as provided in section 331.604, for the recording of the lien, or for its satisfaction.

Upon the payment of the replacement tax as to which a county treasurer or chief financial officer of a city has filed notice with a county recorder, the county treasurer or chief financial officer of the city shall promptly file with the recorder a satisfaction of the replacement tax. The recorder shall enter the satisfaction on the notice on file in the recorder's office and indicate that fact on the index.

Section 445.3 applies with respect to the replacement taxes and penalties imposed by this chapter, except for the provisions limiting the commencement of actions.

Sec. 13. NEW SECTION. 437A.12 SERVICE OF NOTICE.

1. A notice authorized or required under this chapter may be given by mailing the notice to the taxpayer, addressed to the taxpayer at the address given in the last return filed by

the taxpayer pursuant to this chapter, or if no return has been filed, then to the most recent address of the taxpayer obtainable. The mailing of the notice is presumptive evidence of the receipt of the notice by the taxpayer to whom the notice is addressed. A period of time within which some action must be taken for which notice is provided under this section commences to run from the date of mailing of the notice.

2. There is no limitation for the enforcement of a civil remedy pursuant to any proceeding or action taken to levy, appraise, assess, determine, or enforce the collection of any tax or penalty due under this chapter.

Sec. 14. NEW SECTION. 437A.13 PENALTIES -- OFFENSES -- LIMITATION.

1. A taxpayer is subject to the penalty provisions in section 421.27 with respect to any replacement tax due under this chapter. A taxpayer shall also pay interest on the delinquent replacement tax at the rate in effect under section 421.7 for each month computed from the date the payment was due, counting each fraction of a month as an entire month. The penalty and interest shall be paid to the county treasurer, or in the case of penalty and interest associated with a municipal transfer replacement tax to the city financial officer, and shall be disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be enforced in the same manner as provided for unpaid replacement tax under this chapter.

2. A taxpayer, or officer, member, or employee of the taxpayer, who willfully attempts to evade the replacement tax imposed or the payment of the replacement tax is guilty of a class "D" felony.

3. The issuance of a certificate by the director or a county treasurer stating that a replacement tax has not been paid, that a return has not been filed, or that information has not been supplied pursuant to this chapter is prima facie evidence of such failure.

4. A taxpayer, or officer, member, or employee of the taxpayer, required to pay a replacement tax, or required to make, sign, or file an annual return or supplemental return, who willfully makes a false or fraudulent annual return, or who willfully fails to pay at least ninety percent of the replacement tax or willfully fails to make, sign, or file the annual return, as required, is guilty of a fraudulent practice.

5. For purposes of determining the place of trial for a violation of this section, the situs of an offense is in the county of the residence of the taxpayer, officer, member, or employee of the taxpayer charged with the offense, unless the taxpayer, officer, member, or employee of the taxpayer is a nonresident of this state or the residence cannot be established, in which event the situs of the offense is in Polk county.

6. Prosecution for an offense specified in this section shall be commenced within six years after the commission of the offense.

Sec. 15. NEW SECTION. 437A.14 CORRECTION OF ERRORS -- REFUNDS OR CREDITS OF REPLACEMENT TAX PAID -- INFORMATION CONFIDENTIAL -- PENALTY.

1. a. If an amount of replacement tax, penalty, or interest has been paid which was not due under this chapter, a city's chief financial officer or county treasurer to whom such erroneous payment was made shall do one of the following:

(1) Credit the amount of the erroneous payment against any replacement tax due, or to become due, from the taxpayer on the books of the city or county.

(2) Refund the amount of the erroneous payment to the taxpayer.

b. Claims for refund or credit of replacement taxes paid shall be filed with the director. A claim for refund or credit that is not filed with the director within three years after the replacement tax payment upon which a refund or

credit is claimed became due, or one year after the replacement tax payment was made, whichever time is later, shall not be allowed. A claim for refund or credit of tax alleged to be unconstitutional not filed with the director within ninety days after the replacement tax payment upon which a refund or credit is claimed became due shall not be allowed. As a precondition for claiming a refund or credit of alleged unconstitutional taxes, such taxes must be paid under written protest which specifies the particulars of the alleged unconstitutionality. Claims for refund or credit may only be made by, and refunds or credits may only be made to, the person responsible for paying the replacement tax, or such person's successors. The director shall notify affected county treasurers of the acceptance or denial of any refund claim. Section 421.10 applies to claims denied by the director.

2. It is unlawful for any present or former officer or employee of the state to divulge or to make known in any manner to any person the kilowatt-hours of electricity or therms of natural gas delivered by a taxpayer in a competitive service area disclosed on a tax return, return information, or investigative or audit information. A person who violates this section is guilty of a serious misdemeanor. If the offender is an officer or employee of the state, such person, in addition to any other penalty, shall also be dismissed from office or discharged from employment. This section does not prohibit turning over to duly authorized officers of the United States or tax officials of other states such kilowatt-hours or therms pursuant to agreement between the director and the secretary of the treasury of the United States or the secretary's delegate or pursuant to a reciprocal agreement with another state.

3. Unless otherwise expressly permitted by a section referencing this chapter, the kilowatt-hours of electricity or therms of natural gas delivered by a taxpayer in a competitive

service area shall not be divulged to any person or entity, other than the taxpayer, the department, or the internal revenue service for use in a matter unrelated to tax administration.

This prohibition precludes persons or entities other than the taxpayer, the department, or the internal revenue service from obtaining such information from the department. A subpoena, order, or process which requires the department to produce such information to a person or entity, other than the taxpayer, the department, or internal revenue service, for use in a nontax proceeding is void.

4. Notwithstanding subsections 2 and 3, the chief financial officer of any local taxing district and any designee of such officer shall have access to any computations made by the director pursuant to the provisions of this chapter, and any tax return or other information used by the director in making such computations, which affect the replacement tax owed by any such taxpayer.

Notwithstanding this section, providing information relating to the kilowatt-hours of electricity or therms of natural gas delivered by a taxpayer in a competitive service area to the task force established in section 437A.15, subsection 7, or to the study committee established in section 476.6, subsection 23, is not a violation of this section.

5. Local taxing district employees are deemed to be officers and employees of the state for purposes of subsection 2.

6. Claims for refund or credit of municipal transfer replacement tax shall be filed with the appropriate city's chief financial officer. Subsection 1 applies with respect to the transfer replacement tax and the city's chief financial officer shall have the same authority as is granted to the director under this section with respect to a return filed pursuant to section 437A.8, subsection 2.

7. Claims for refund or credit of special utility property tax levies shall be filed with the appropriate county treasurer. Subsection 1 applies with respect to the special utility property tax levy and the county treasurer shall have the same authority as is granted to the director under this section.

Sec. 16. NEW SECTION. 437A.15 ALLOCATION OF REVENUE.

1. The director and the department of management shall compute the allocation of all replacement tax revenues other than transfer replacement tax revenues among the local taxing districts in accordance with this section and shall report such allocation by local taxing districts to the county treasurers on or before August 15 following a tax year.

2. The director shall determine and report to the department of management the total replacement taxes to be collected from each taxpayer for the tax year on or before July 30 following such tax year.

3. All replacement taxes owed by a taxpayer shall be allocated among the local taxing districts in which such taxpayer's property is located in accordance with a general allocation formula determined by the department of management on the basis of general property tax equivalents. General property tax equivalents shall be determined by applying the levy rates reported by each local taxing district to the department of management on or before June 30 following a tax year to the assessed value of taxpayer property allocated to each such local taxing district as adjusted and reported to the department of management in such tax year by the director pursuant to section 437A.19, subsection 2. The general allocation formula for a tax year shall allocate to each local taxing district that portion of the replacement taxes owed by each taxpayer which bears the same ratio as such taxpayer's general property tax equivalents for each local taxing district bears to such taxpayer's total general property tax equivalents for all local taxing districts in Iowa.



4. On or before August 31 following tax years 1999, 2000, and 2001, each county treasurer shall compute a special utility property tax levy or tax credit for each taxpayer for which a replacement tax liability for each such tax year is reported to the county treasurer pursuant to subsection 1, and shall notify the taxpayer of the amount of such tax levy or tax credit. The amount of the special utility property tax levy or credit shall be determined for each taxpayer by the county treasurer by comparing the taxpayer's total replacement tax liability allocated to taxing districts in the county pursuant to this section with the anticipated tax revenues from the taxpayer for all taxing districts in the county. If the taxpayer's total replacement tax liability allocated to taxing districts in the county is less than the anticipated tax revenues from the taxpayer for all taxing districts in the county, the county treasurer shall levy a special utility property tax equal to the shortfall which shall be added to and collected with the replacement tax owed by the taxpayer to the county treasurer for the tax year pursuant to section 437A.8, subsection 4. If the taxpayer's total replacement tax liability allocated to taxing districts in the county exceeds the anticipated tax revenues from the taxpayer for all taxing districts in the county, the county treasurer shall issue a credit to the taxpayer which shall be applied to reduce the taxpayer's replacement tax liability to the county treasurer for the tax year. If the taxpayer's total replacement tax liability allocated to taxing districts in the county equals the anticipated tax revenues from the taxpayer for all taxing districts in the county, no levy or credit is required. Replacement tax liability for purposes of this subsection means replacement tax liability before credits allowed by section 437A.8, subsection 7. A recalculation of a special utility property tax levy or credit shall not be made as a result of a subsequent recalculation of replacement tax liability under section 437A.8, subsection 7, or adjustment to

assessed value under section 437A.19, subsection 2, paragraph "f". "Anticipated tax revenues from a taxpayer" means the product of the total levy rates imposed by the taxing districts and the value of taxpayer property allocated to the taxing districts and reported to the county auditor. Special utility property tax levies and credits shall be treated as replacement taxes for purposes of section 437A.11.

It is the intent of the general assembly that the general assembly evaluate the impact of the imposition of the replacement tax for purposes of determining whether this subsection shall remain in effect and whether a determination shall be made as to the necessity of a recalculation as provided in this subsection for tax years beginning after tax year 2000.

5. The replacement tax, as adjusted by any special utility property tax levy or credit and remitted to a county treasurer by each taxpayer, shall be treated as a property tax when received and shall be disposed of by the county treasurer as taxes on real estate. Notwithstanding the allocation provisions of this section, nothing in this section shall deny any affected taxing entity, as defined in section 403.17, subsection 1, which has enacted an ordinance or entered into an agreement for the division and allocation of taxes authorized under section 403.19 and under which ordinance or agreement the taxes collected in respect of properties owned by any of the taxpayers remitting replacement taxes pursuant to the provisions of this chapter are being divided and allocated, the right to receive its share of the replacement tax revenues collected for any year which would otherwise be paid to such affected taxing entity under the terms of any such ordinance or agreement had this chapter not been enacted. To the extent that adjustment must be made to the allocation described in this section to give effect to the terms of such ordinances or agreements, the department of management and the county treasurer shall make such adjustments.

6. In lieu of the adjustment provided for in subsection 5, the assessed value of property described in section 403.19, subsection 1, may be reduced by the city or county by the amount of the taxable value of the property described in section 437A.16 included in such area on January 1, 1997, pursuant to amendment of the ordinance adopted by such city or county pursuant to section 403.19.

7. On or before July 1, 1998, the department of management, in consultation with the department of revenue and finance, shall initiate and coordinate the establishment of a task force and provide staffing assistance to the task force. It is the intent of the general assembly that the task force include representatives of the department of management, department of revenue and finance, electric companies, natural gas companies, municipal utilities, electric cooperatives, counties, cities, school boards, and industrial, commercial, and residential consumers, and other appropriate stakeholders.

The task force shall study the effects of the replacement tax on local taxing districts, consumers, and taxpayers and the department of management shall report to the general assembly by January 1 of each year through January 1, 2003, the results of the study and the specific recommendations of the task force for modifications to the replacement tax, if any, which will further the purposes of tax neutrality for local taxing districts, taxpayers, and consumers, consistent with the stated purposes of this chapter. The department of management shall also report to the legislative council by November 15 of each year through 2002, the status of the task force study and any recommendations.

Sec. 17. NEW SECTION. 437A.16 ASSESSMENT EXCLUSIVE.

All operating property and all other property that is primarily and directly used in the production, generation, transmission, or delivery of electricity or natural gas owned by or leased to a person subject to taxation under this chapter is exempt from taxation except as otherwise provided

by this chapter. This exemption shall not extend to taxes imposed under chapters 437, 438, and 468, taxpayers described in section 437A.8, subsection 6, or facilities or property described in section 437A.6, subsection 1, paragraphs "a" through "f", and section 437A.7, subsection 2.

Sec. 18. NEW SECTION. 437A.17 STATUTES APPLICABLE -- RATE CALCULATIONS.

1. The director shall administer and enforce the replacement tax imposed by this chapter in the same manner as provided in and subject to sections 422.68, 422.70, 422.71, and 422.75.

2. The calculation of tax rates and adjustments to such rates by the director pursuant to this chapter do not constitute rulemaking subject to the provisions of chapter 17A.

SUBCHAPTER 3  
STATEWIDE PROPERTY TAX

Sec. 19. NEW SECTION. 437A.18 TAX IMPOSITION.

An annual statewide property tax of three cents per one thousand dollars of assessed value is imposed upon all property described in section 437A.16 on the assessment date of January 1.

Sec. 20. NEW SECTION. 437A.19 ADJUSTMENT TO ASSESSED VALUE -- REPORTING REQUIREMENTS.

1. a. A taxpayer whose property is subject to the statewide property tax shall report to the director by July 1, 1999, and by May 1 of each subsequent tax year, on forms prescribed by the director, the book value, as of the beginning and end of the preceding calendar year, of all of the following:

- (1) The local amount of any major addition by local taxing district.
- (2) The statewide amount of any major addition without notation of location.

(3) Any building in Iowa at acquisition cost of more than ten million dollars which was originally placed in service by the taxpayer prior to January 1, 1998, and which was transferred or disposed of in the preceding calendar year, without notation of location.

(4) Any electric power generating plant in Iowa at acquisition cost of more than ten million dollars which was originally placed in service by the taxpayer prior to January 1, 1998, and which was transferred or disposed of in the preceding calendar year, without notation of location.

(5) All other taxpayer property without notation of location.

(6) The local amount of any major addition eligible for the urban revitalization exemption provided for in chapter 404, by situs.

b. For purposes of this section:

(1) "Book value" means acquisition cost less accumulated depreciation determined under generally accepted accounting principles.

(2) "Taxpayer property" means property described in section 437A.16.

(3) "To dispose of" means to sell, abandon, decommission, or retire an asset.

(4) "Transfer" means a transaction which results in a change of ownership of taxpayer property and includes a capital lease transaction.

c. For purposes of this subsection, "taxpayer" includes a person who would have been a taxpayer in calendar year 1998 had the provisions of this chapter been in effect for the 1998 assessment year.

d. If a taxpayer owns or leases pursuant to a capital lease less than the entire interest in a major addition, the local amount and statewide amount, if any, of such major addition shall be apportioned to the taxpayer on the basis of its percentage interest in such major addition.

2. Beginning January 1, 1999, the assessed value of taxpayer property shall be adjusted annually as provided in this section. The director, with respect to each taxpayer, shall do all of the following:

a. Adjust the assessed value of taxpayer property in each local taxing district by the change in book value during the preceding calendar year of the local amount of any major addition reported within such local taxing district.

b. (1) Adjust the assessed value of taxpayer property in each local taxing district by allocating the change in book value during the preceding calendar year of the statewide amount and all other taxpayer property described in subsection 1, paragraph "a", subparagraph (5), to the assessed value of all taxpayer property in the state pro rata according to its preadjustment value.

(2) If, during the preceding calendar year, a taxpayer transferred an electric power generating plant to a taxpayer who owned no other taxpayer property in this state as of the end of such preceding calendar year, in lieu of the adjustment provided in subparagraph (1), the director shall allocate the transferee taxpayer's change in book value of the statewide amount during such preceding calendar year, if any, among local taxing districts in proportion to the allocation of the transferor's assessed value among local taxing districts as of the end of such preceding calendar year.

c. In the case of taxpayer property described in subsection 1, paragraph "a", subparagraphs (3) and (4), decrease the assessed value of taxpayer property in each local taxing district by the taxable value of such property within each such local taxing district on January 1, 1998.

d. In the event of a merger or consolidation of two or more taxpayers, to determine the assessed value of the surviving taxpayer, combine the assessed values of such taxpayers immediately prior to the merger or consolidation.

e. In the event any taxpayer property is eligible for the urban revitalization tax exemption described in chapter 404, adjust the assessed value of taxpayer property within each affected local taxing district to reflect such exemption.

f. In the event the base year assessed value of taxpayer property is adjusted as a result of taxpayer appeals, reduce the assessed value of taxpayer property in each local taxing district to reflect such adjustment. The adjustment shall be allocated in proportion to the allocation of the taxpayer's assessed value among the local taxing districts determined without regard to this adjustment. If an adjustment to the base year assessed value of taxpayer property is finally determined on or before September 30, 1999, it shall be reflected in the January 1, 1999, assessed value. Otherwise, any such adjustment shall be made as of January 1 of the year following the date on which the adjustment is finally determined.

In no event shall the adjustments set forth in this subsection reduce the assessed value of taxpayer property in any local taxing district below zero.

The director, on or before October 31, 1999, in the case of January 1, 1999, assessed values, and on or before August 31 of each subsequent assessment year, shall report to the department of management and to the auditor of each county the adjusted assessed value of taxpayer property as of January 1 of such assessment year for each local taxing district. For purposes of this subsection, the assessed value of taxpayer property in each local taxing district subject to adjustment under this section by the director means the assessed value of such property as of the preceding January 1 as determined and allocated among the local taxing districts by the director.

Nothing in this chapter shall be interpreted to authorize local taxing districts to exclude from the calculation of levy rates the adjusted assessed value of taxpayer property reported to county auditors pursuant to this subsection.

Sec. 21. NEW SECTION. 437A.20 TAX EXEMPTIONS.

Except as provided in section 437A.16, all property tax exemptions in the Code do not apply to property subject to the statewide property tax unless such exemptions expressly refer to the statewide property tax, except that if property was exempt from property tax on January 1, 1999, such exemption shall continue until the exemption expires, is phased out, or is repealed. The property of a taxpayer who does not owe any replacement tax is exempt from the statewide property tax for the coinciding assessment year.

Sec. 22. NEW SECTION. 437A.21 RETURN AND PAYMENT REQUIREMENTS.

1. Each electric company, natural gas company, electric cooperative, municipal utility, and other person whose property is subject to the statewide property tax shall file with the director a return, on or before February 28 following the assessment year, including, but not limited to, the following information:

a. The assessed value of property subject to the statewide property tax.

b. The amount of statewide property tax computed on such assessed value.

2. The first return under subsection 1 is due on or before February 28, 2000.

3. If an electric company, natural gas company, electric cooperative, municipal utility, or person is not required to file a statewide property tax return on or before February 28, 2000, but is required to file a return after such date, the return shall be filed on or before the due date. This subsection also applies in the event of a consolidation.

4. A return shall be signed by an officer, or other person duly authorized by the taxpayer, and must be certified as correct and in accordance with rules and forms prescribed by the director.

5. At the time of filing the return with the director, the taxpayer shall calculate the statewide property tax owed for

the assessment year and shall remit to the director the statewide property tax required to be shown to be due on the return.

Sec. 23. NEW SECTION. 437A.22 STATUTES APPLICABLE.

Sections 437A.9, 437A.10, 437A.12, 437A.13, and 437A.14, subsection 1, are applicable to electric companies, natural gas companies, electric cooperatives, municipal utilities, and persons whose property is subject to the statewide property tax. However, a required credit or refund of overpaid statewide property tax pursuant to section 437A.14, subsection 1, as it applies to this subchapter, shall be made by the director and not by city chief financial officers or county treasurers.

Section 422.26 applies with respect to the statewide property tax and penalties imposed by this chapter, except that, as applied to any tax imposed by this chapter, the lien provided shall be prior to and superior over all subsequent liens upon any personal property within this state or right to such personal property belonging to the taxpayer, without the necessity of recording the lien as provided in section 422.26. The requirement for recording, as applied to the statewide property tax imposed by this chapter, shall apply only to a lien upon real property. In order to preserve such lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any real property situated in a county, the director shall file with the recorder of the county in which the real property is located a notice of the lien.

The county recorder of each county shall prepare and keep in the recorder's office a book to be known as the index of statewide property tax liens, so ruled as to show in appropriate columns under the names of taxpayers arranged alphabetically, all of the following:

1. The name of the taxpayer.
2. The name "State of Iowa" as claimant.

3. Time the notice of lien was received.
4. Date of notice.
5. Amount of lien then due.
6. Date of assessment.
7. Date when the lien is satisfied.

The recorder shall endorse on each notice of lien the day, hour, and minute when received and preserve such notice, and shall promptly record the lien in the manner provided for recording real estate mortgages. The lien is effective from the time of the indexing of the lien.

The director, from moneys appropriated to the department of revenue and finance for this purpose, shall pay a recording fee as provided in section 331.604 for the recording of the lien, or for its satisfaction.

Upon the payment of the replacement tax as to which the director has filed notice with a county recorder, the director shall promptly file with the recorder a satisfaction of the replacement tax. The recorder shall enter the satisfaction on the notice on file in the recorder's office and indicate that fact on the index.

Sec. 24. NEW SECTION. 437A.23 DEPOSIT OF TAX PROCEEDS.

All revenues received from imposition of the statewide property tax shall be deposited in the general fund of the state. Fifty percent of the revenues shall be available to the department of management for salaries, support, services, and equipment to administer the replacement tax. The balance of the revenues shall be available to the department of revenue and finance for salaries, support, services, and equipment to administer and enforce the replacement tax and the statewide property tax.

SUBCHAPTER 4

GENERAL PROVISIONS

Sec. 25. NEW SECTION. 437A.24 RECORDS.

Each electric company, natural gas company, electric cooperative, municipal utility, and other person who is

subject to the replacement tax or the statewide property tax shall maintain records associated with the replacement tax and the assessed value of property subject to the statewide property tax for a period of ten years following the later of the original due date for filing a return pursuant to sections 437A.8 and 437A.21 in which such taxes are reported, or the date on which either such return is filed. Such records shall include those associated with any additions or dispositions of property, and the allocation of such property among local taxing districts.

Sec. 26. NEW SECTION. 437A.25 RULES.

The director of revenue and finance may adopt rules pursuant to chapter 17A for the administration and enforcement of this chapter.

Sec. 27. Section 257.3, subsection 1, Code 1997, is amended by adding the following unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Replacement taxes under chapter 437A shall be regarded as property taxes for purposes of this chapter.

Sec. 28. Section 427.1, subsection 2, Code Supplement 1997, is amended to read as follows:

2. MUNICIPAL AND MILITARY PROPERTY. The property of a county, township, city, school corporation, levee district, drainage district or military company of the state of Iowa, when devoted to public use and not held for pecuniary profit, except property of a municipally owned electric utility held under joint ownership and property of an electric power facility financed under chapter 28F which shall be subject to ~~assessment and taxation under provisions of chapters 428 and 437~~ chapter 437A. The exemption for property owned by a city or county also applies to property which is operated by a city or county as a library, art gallery or museum, conservatory, botanical garden or display, observatory or science museum, or as a location for holding athletic contests, sports or entertainment events, expositions, meetings or conventions, or

leased from the city or county for any such purposes. Food and beverages may be served at the events or locations without affecting the exemptions, provided the city has approved the serving of food and beverages on the property if the property is owned by the city or the county has approved the serving of food and beverages on the property if the property is owned by the county.

Sec. 29. Section 428.24, Code 1997, is amended to read as follows:

428.24 PUBLIC UTILITY PLANTS.

The lands, buildings, machinery, and mains belonging to individuals or corporations operating waterworks or gasworks or pipelines, ~~the lands, buildings, machinery, tracks, poles, and wires belonging to individuals, corporations or electric power agencies furnishing electric light or power, and the lands, buildings, machinery, poles, wires, overhead construction, tracks, cables, conduits, and fixtures belonging to individuals or corporations operating railways by cable or electricity, or operating elevated street railways,~~ except those natural gas pipelines permitted pursuant to chapter 479, shall be listed and assessed by the department of revenue and finance. In the making of assessments of waterworks plants, the value of any interest in the property assessed, of the municipal corporation where it is situated, shall be deducted, whether the interest is evidenced by stock, bonds, contracts, or otherwise.

Sec. 30. Section 428.26, Code 1997, is amended to read as follows:

428.26 PERSONAL PROPERTY.

All the personal property of such individuals and corporations used or purchased by them for the purposes of such gas or waterworks, ~~electric light plants, electric or cable railways, elevated street railways or street railways operated by animal power, including the rolling stock of such railways and street railways, and the animals belonging to~~

~~such street railways operated by animal power, other than natural gas pipelines permitted pursuant to chapter 479,~~ shall be listed and assessed by the department of revenue and finance. In the making of any such assessment of waterworks plants, the value of any interest in the property so assessed, of the municipal corporation wherein in which the same waterworks is situated, shall be deducted, whether such interest be evidenced by stock, bonds, contracts, or otherwise.

Sec. 31. Section 428.28, Code 1997, is amended to read as follows:

428.28 ANNUAL REPORT BY UTILITY.

Every individual, copartnership, corporation, or association operating for profit, waterworks or gasworks or pipe lines, ~~electric light or power plant, railways operated by electricity, elevated street railways,~~ shall other than natural gas pipelines permitted pursuant to chapter 479, annually on or before the ~~first day of~~ May 1 of each calendar year, ~~shall~~ make a report on blanks to be provided by the department of revenue and finance of all of the property owned by such individual, copartnership, corporation, or association within the incorporated limits of any city in the state, and give such other information as the director of revenue and finance shall require.

Every individual, copartnership, corporation, or association which operates a public utility on a nonprofit basis other than a utility subject to tax under chapter 437A, as defined in section 428.24 shall annually, on or before the ~~first day of~~ May 1 of each calendar year, make a report on blanks to be provided by the department of revenue and finance of all of the property owned by the individual, copartnership, corporation, or association within the incorporated limits of any city in the state, and give other information the director of revenue and finance requires.

Sec. 32. Section 437.1, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

437.1 DEFINITIONS.

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

1. "Company" means an electric cooperative referred to in section 437A.7, subsection 2, paragraph "c".
2. "Electric cooperative" means an electric utility provider formed or organized as an electric cooperative under the laws of this state or elsewhere.
3. "Transmission lines" means electric lines and associated facilities operating at thirty-four thousand five hundred volts or higher voltage, and substations, transformers, and associated facilities operated at thirty-four thousand five hundred or more volts on the low voltage side.

Sec. 33. Section 437.3, Code 1997, is amended to read as follows:

437.3 VERIFICATION.

The verification of any statement required by law shall ~~in the case of a person, be made by such person; in the case of a corporation, by the president or secretary thereof; and in case of a copartnership, association, or syndicate, by some member, officer, or agent thereof~~ of the company having knowledge of the facts.

Sec. 34. Section 438.1, Code 1997, is amended to read as follows:

438.1 TAXATION PROCEDURE.

Every person, copartnership, association, corporation, or syndicate engaged in the business of transporting or transmitting gas, gasoline, oils, or motor fuels by means of pipelines other than natural gas pipelines permitted pursuant to chapter 479, whether such pipelines be owned or leased, shall be taxed as herein provided in this chapter.

Sec. 35. Section 438.2, Code 1997, is amended to read as follows:

438.2 ~~DEFINITIONS~~ DEFINITION.

~~The words "pipeline~~ "Pipeline company", as used in this chapter ~~shall be deemed and construed to mean,~~ means any person, copartnership, association, corporation, or syndicate that may own or operate or be engaged in operating or utilizing pipelines, other than natural gas pipelines permitted pursuant to chapter 479, for the purposes described in section 438.1.

Sec. 36. Section 441.73, subsection 1, Code Supplement 1997, is amended to read as follows:

1. A litigation expense fund is created in the state treasury. The litigation expense fund shall be used for the payment of litigation expenses incurred by the state to defend property valuations established by the director of revenue and finance pursuant to section 428.24 and chapters 430A, 433, 434, 436, 437, 437A, and 438, and for the payment of litigation expenses incurred by the state to defend the imposition of replacement taxes and statewide property taxes under chapter 437A.

Sec. 37. Section 476.6, Code 1997, is amended by adding the following new subsections:

NEW SUBSECTION. 22. The costs of the replacement tax imposed pursuant to chapter 437A shall be reflected in the charges of utilities subject to rate regulation, in lieu of the utilities' costs of property taxes. The imposition of the replacement taxes pursuant to chapter 437A is not intended to initiate any change in the rates and charges for the sale of electricity, the sale of natural gas, or the transportation of natural gas that is subject to regulation by the board and in effect on the effective date of chapter 437A.

The cost of the replacement taxes imposed by chapter 437A shall be allocated among and within customer classes in a manner that will replicate the tax cost burden of the current

property tax on individual customers to the maximum extent practicable.

Upon the restructuring of the electric industry in this state so that individual consumers are given the right to choose their electric suppliers, replacement tax costs shall be assigned to the service corresponding to the individual generation, transmission, and delivery taxes. In all other respects, the allocation of the replacement tax costs among and within the customer classes shall remain the same to the maximum extent practicable.

Notwithstanding this subsection, the board may determine the amount of replacement tax properly included in retail rates subject to its jurisdiction. The board may determine whether the base rates or some other form of rate is most appropriate for recovery of the costs of the replacement tax, subject to the requirement that utility rates be reasonable and just. The board may also determine the appropriate allocation of the tax. Any significant modification to rate design relating to the replacement tax shall be made in a manner consistent with this subsection unless made in a contested case proceeding where the impact of such modification on competition and consumer costs is considered.

NEW SUBSECTION. 23. On or before July 1, 2000, the utilities board, in consultation with the department of revenue and finance, shall initiate and coordinate the establishment of a replacement tax study committee and provide staffing assistance to the committee. It is the intent of the general assembly that the committee include representatives of the utilities board, department of revenue and finance, department of management, investor-owned utilities, municipal utilities, cooperative utilities, local governments, major customer classes, and other stakeholders.

The committee shall study the effects of the replacement tax on both restructuring and the development of competition in the gas and electric industries in this state. The board



shall report to the general assembly by January 1 of each year through 2003, the results of the study, and the committee's recommendations as to whether the replacement tax, in its then present form, should be continued, whether a different form of taxation of electric and gas utilities should be adopted in order to allow free and fair competition in the electric and gas industries, and fair competitive prices for all classes of consumers, whether a different basis for determination of the generation, transmission, and delivery taxes should be adopted or whether the relative share of the total replacement tax burden imposed on each of the generation, transmission, and delivery functions should be modified in order to allow free and fair competition in the electric and gas industries, and fair competitive prices for all classes of consumers, and whether the replacement tax in its then present form, appropriately accounts for the decline in value of electric power generating plants. The replacement tax study committee shall reconvene by January 1, 2006, to further study these same issues, and the board shall report the results of the study and the committee's recommendations to the general assembly by January 1, 2008.

Upon recommendation of the committee, the board may contract for services necessary to the implementation of this subsection with persons who are not state employees, including, but not limited to, facilitators, consultants, and other experts required to assist the committee. The cost of contracted services shall not be paid from appropriated funds, but shall be assessed to entities paying replacement tax pursuant to chapter 437A, subchapter 2, pro rata, based on the amount of tax paid.

Sec. 38. SPECIAL REPORTING REQUIREMENTS. Within ninety days of the effective date of this Act, each electric company, electric cooperative not described in section 437A.7, subsection 2, paragraph "c", municipal utility, and natural gas company shall report to the director, by certified statement subject to audit, the following information:

1. The entity's liability for centrally assessed property tax, as defined in section 437A.3, subsection 2, allocated to electric service for the assessment years 1993 through 1997 on the basis of property tax payments made.

2. The entity's liability for centrally assessed property tax, as defined in section 437A.3, subsection 2, allocated to natural gas service for the assessment years 1993 through 1997 on the basis of property tax payments made.

3. The entity's total kilowatt-hours of electricity generated which would have been subject to taxation under section 437A.6 for the 1998 assessment year had such taxation been in effect for assessment year 1998. Kilowatt-hours of electricity generated by a facility which was jointly owned or leased in assessment year 1998 shall be calculated and reported pursuant to section 437A.6, subsection 2, as if such subsection had been in effect for 1998.

4. The entity's total pole miles of electric transmission lines owned or leased on December 31, 1998, by line voltage, which would have been subject to taxation under section 437A.7 for the 1998 assessment year had such taxation been in effect for assessment year 1998. Pole miles of electric transmission lines which were jointly owned or leased in assessment year 1998 shall be calculated and reported pursuant to section 437A.7, subsection 3, as if such subsection had been in effect for assessment year 1998.

5. The entity's total kilowatt-hours of electricity delivered to consumers which would have been subject to taxation under section 437A.4 for the assessment years 1994 through 1998 had such taxation been in effect for such assessment years.

6. The entity's total therms of natural gas delivered to consumers which would have been subject to taxation under section 437A.5 for the assessment years 1994 through 1998 had such taxation been in effect for such assessment years.

7. For each generation and transmission electric cooperative, the excess property tax liability assignable to each electric competitive service area principally served by its distribution electric cooperative and municipal electric cooperative association members pursuant to section 437A.4, subsection 3, paragraph "c", subparagraph (4).

8. For each municipal electric cooperative association, the excess property tax liability assignable to each electric competitive service area principally served by its municipal utility members on January 1, 1999.

If information necessary to compute the delivery tax rate for any electric or natural gas competitive service area is not timely reported, the director shall estimate a delivery tax rate for such electric or natural gas competitive service area which shall not be lower than the highest electric or natural gas delivery tax rate computed for other electric or natural gas competitive service areas. However, if such information is provided within thirty days after the director has published in the Iowa administrative bulletin the delivery tax rates computed pursuant to section 437A.4, subsection 3, paragraph "d", and section 437A.5, subsection 3, paragraph "c", the director shall recalculate the electric or natural gas delivery tax rate for such electric or natural gas competitive service area and notify the taxpayers of the new electric or natural gas delivery tax rate by publication in the Iowa administrative bulletin on or before January 31, 2000.

Sec. 39. Sections 428.37 and 437.14, Code 1997, are repealed.

Sec. 40. EFFECTIVE AND APPLICABILITY DATES -- DIRECTIONS TO CODE EDITOR.

1. Except as provided in subsection 2, this Act takes effect January 1, 1999, and is applicable to property tax assessment years beginning on or after January 1, 1999, and to replacement tax years beginning on or after January 1, 1999.

2. Notwithstanding subsection 1, section 437A.15, subsection 7, as enacted in this Act and which provides for the establishment of a task force to study the effects of the replacement tax, takes effect upon enactment.

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MARY B. KRAMER  
President of the Senate

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RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2416, Seventy-seventh General Assembly.

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MARY PAT GUNDERSON  
Secretary of the Senate

Approved May 14, 1998

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TERRY E. BRANSTAD  
Governor