

Hoffman, Ch.
Hansen
Shultz

HSB 175

WAYS AND MEANS
Substituted by
SF / HF 721

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON WAYS
AND MEANS BILL BY CHAIRPERSON
VAN FOSSEN)

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

A BILL FOR

1 An Act regarding certain changes relating to the utility
2 replacement tax, and providing for the Act's applicability.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 437A.3, subsection 1, unnumbered
2 paragraph 1, Code 2001, is amended to read as follows:

3 "Assessed value" means the base year assessed value, as
4 adjusted by section 437A.19, subsection 2. "Base year
5 assessed value", for a taxpayer other than an electric
6 company, natural gas company, or electric cooperative, means
7 the value attributable to property identified in section
8 427A.1, subsection 1, paragraph "h", certified by the
9 department of revenue and finance to the county auditors for
10 the assessment date of January 1, 1997, and the value
11 attributable to property identified in section 427A.1 and
12 section 427B.17, subsection 5, as certified by the local
13 assessors to the county auditors for the assessment date of
14 January 1, 1997, provided, that for a taxpayer subject to
15 section 437A.17A, such value shall be the value certified by
16 the department of revenue and finance and local assessors to
17 the county auditors for the assessment date of January 1,
18 1998. However, "base year assessed value", for purposes of
19 property of a taxpayer that is a municipal utility, if the
20 property is not a major addition, and the property was
21 initially assessed to the taxpayer as of January 1, 1998, and
22 is not located in a county where the taxpayer had property
23 that was assessed for purposes of this chapter as of January
24 1, 1997, means the value attributable to such property for the
25 assessment date of January 1, 1998.

26 Sec. 2. Section 437A.8, subsection 1, unnumbered paragraph
27 1, Code 2001, is amended to read as follows:

28 Each taxpayer, on or before ~~February-28~~ March 31 following
29 a tax year, shall file with the director a return including,
30 but not limited to, the following information:

31 Sec. 3. Section 437A.8, subsection 2, unnumbered paragraph
32 1, Code 2001, is amended to read as follows:

33 Each taxpayer subject to a municipal transfer replacement
34 tax, on or before ~~February-28~~ March 31 following a tax year,
35 shall file with the chief financial officer of each city

1 located within an electric or natural gas competitive service
2 area served by a municipal utility as of January 1, 1999, a
3 return including, but not limited to, the following
4 information:

5 Sec. 4. Section 437A.8, subsection 4, unnumbered
6 paragraphs 2 and 3, Code 2001, are amended to read as follows:

7 If a distribution electric cooperative member or a
8 municipal utility purchasing member subject to section
9 437A.15, subsection 3, paragraph "b", does not make timely
10 payment of the correct amount of replacement tax to the
11 generation and transmission electric cooperative and the
12 ~~generation and transmission electric cooperative so notifies~~
13 ~~the director and the appropriate county treasurer within~~
14 ~~fifteen days after August 1, and timely remits to the county~~
15 ~~treasurer the amounts of replacement tax received by the~~
16 ~~generation and transmission electric cooperative in accordance~~
17 ~~with section 437A.15, subsection 3, paragraph "b", the~~
18 ~~generation and transmission electric cooperative shall not be~~
19 ~~liable for the unpaid replacement tax due from the~~
20 ~~distribution electric cooperative member or municipal utility~~
21 ~~purchasing member. The generation and transmission electric~~
22 ~~cooperative shall also not be liable for a special utility~~
23 ~~property tax levy, if any, and shall not be entitled to a tax~~
24 ~~credit, if any, attributable to the unpaid replacement tax.~~
25 ~~The county treasurer and the director shall enforce payment of~~
26 ~~the replacement tax against the appropriate distribution~~
27 ~~electric cooperative member or municipal utility purchasing~~
28 ~~member pursuant to sections 437A.9 through 437A.13. The~~
29 ~~county treasurer shall enforce payment of the special utility~~
30 ~~property tax levy, if any, against the appropriate~~
31 ~~distribution electric cooperative member or municipal utility~~
32 ~~purchasing member.~~

33 If a generation and transmission electric cooperative
34 receives some, but not all, of the required payment from a
35 distribution electric cooperative member or a municipal

1 utility-purchasing-member, the generation and transmission
2 electric cooperative shall notify the director in writing
3 within ~~fifteen~~ ten days after ~~August-1~~ September 10. The
4 director shall then notify the generation and transmission
5 electric cooperative in writing within five days after
6 delivery of notice to the director of the paid amount to be
7 remitted to the appropriate county treasurer and shall also
8 notify the county treasurer. The generation and transmission
9 electric cooperative shall remit the amount determined by the
10 director to the appropriate county treasurer by September 30.
11 If the generation and transmission electric cooperative timely
12 notifies the director and timely remits to the county
13 treasurer the amounts of replacement tax, as determined by the
14 director, the generation and transmission electric cooperative
15 shall not be liable for that unpaid replacement tax due from
16 the distribution electric cooperative member or municipal
17 utility purchasing member. The generation and transmission
18 electric cooperative shall also not be liable for a special
19 utility property tax levy, if any, and shall not be entitled
20 to a tax credit, if any, attributable to the unpaid
21 replacement tax. The county treasurer and the director shall
22 enforce payment of the replacement tax against the appropriate
23 distribution electric cooperative member or municipal utility
24 purchasing member pursuant to sections 437A.9 through 437A.13.
25 The county treasurer shall enforce payment of the special
26 utility property tax levy, if any, against the appropriate
27 distribution electric cooperative member or municipal utility
28 purchasing member. For purposes of this paragraph:
29 a. Written notice to the director must be either delivered
30 to the director by electronic means, United States postal
31 service, or a common carrier, by ordinary, certified, or
32 registered mail directed to the attention of the director, be
33 personally delivered to the director, or be served on the
34 director by personal service during business hours. If the
35 notice is mailed, a notice is considered delivered on the date

1 of the postmark. If a postmark date is not present on the
2 mailed article, the date of receipt of notice shall be
3 considered the date of the mailing. A notice is considered
4 delivered on the date personal service or personal delivery to
5 the office of the director is made.

6 b. Written notice to a generation and transmission
7 electric cooperative must be delivered to the cooperative by
8 electronic means, United States postal service, or a common
9 carrier, by ordinary, certified, or registered mail, directed
10 to the attention of the manager of the cooperative, be
11 personally delivered to the manager of the cooperative, or be
12 served on the manager of the cooperative by personal service
13 during business hours. For the purpose of mailing, a notice
14 is considered delivered on the date of the postmark. If a
15 postmark date is not present on the mailed article, the date
16 of receipt of notice shall be considered the date of the
17 mailing. A notice is considered delivered on the date
18 personal service or personal delivery to the office of the
19 manager of the cooperative is made.

20 Sec. 5. Section 437A.8, subsection 6, Code 2001, is
21 amended to read as follows:

22 6. Notwithstanding subsections 1 through 5, a taxpayer
23 shall not be required to file a return otherwise required by
24 this section or remit any replacement tax for any tax year in
25 which the taxpayer's replacement tax liability before credits
26 is three hundred dollars or less, provided that all electric
27 companies, electric cooperatives, municipal utilities, and
28 natural gas companies shall file a return, regardless of the
29 taxpayer's replacement tax liability.

30 Sec. 6. Section 437A.15, subsection 3, Code 2001, is
31 amended to read as follows:

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

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

15 b. Notwithstanding other provisions of this section, if
16 excess property tax liability has been assigned pursuant to
17 section 437A.4, subsection 3, paragraph "c", subparagraph (4),
18 and has not been removed, the allocation of electric delivery
19 replacement tax attributable to the excess property tax
20 liability shall be made by the director and the department of
21 management so as to allocate the electric delivery replacement
22 tax attributable to the excess property tax liability among
23 those local taxing districts in which the property associated
24 with the excess property tax liability is located. In order
25 to ensure that the electric delivery replacement tax
26 attributable to the excess property tax liability is paid to
27 the appropriate county treasurer for disposition to the local
28 taxing districts, each distribution electric cooperative
29 member and each municipal utility purchasing member subject to
30 section 437A.4, subsection 3, paragraph "c", subparagraph (4),
31 shall pay to the appropriate generation and transmission
32 electric cooperative the electric delivery replacement tax
33 attributable to the excess property tax liability by ~~August 1~~
34 September 10. The amount of electric delivery replacement tax
35 attributable to the excess property tax liability shall equal

1 that percentage of total electric delivery replacement tax
 2 liability that the excess property tax liability bears to the
 3 total property tax liability contained in the electric
 4 delivery tax component. The generation and transmission
 5 electric cooperative shall pay the electric delivery
 6 replacement tax attributable to the excess property tax
 7 liability to the appropriate county treasurer.

8 c. If paragraph "b" is applicable, on or before ~~June-1~~
 9 August 1, the director shall notify each distribution electric
 10 cooperative member, each municipal utility purchasing member,
 11 and each generation and transmission electric cooperative of
 12 the amount of electric delivery replacement tax to pay to the
 13 generation and transmission electric cooperative. On or
 14 before ~~June-1~~ August 1, the director shall notify the
 15 generation and transmission electric cooperative of the amount
 16 of replacement tax liability attributable to the excess
 17 property tax liability that is payable to each county
 18 treasurer. The director shall determine the amount of any
 19 special utility property tax levy or tax credit attributable
 20 to the excess property tax liability which shall be reflected
 21 in the amount required to be paid by each distribution
 22 electric cooperative member and each municipal utility
 23 purchasing member to the generation and transmission electric
 24 cooperative.

25 d. If, during the tax year, a taxpayer transferred
 26 operating property or an interest in operating property to
 27 another taxpayer, the transferee taxpayer's replacement tax
 28 associated with that property shall be allocated, for the tax
 29 year in which the transfer occurred, under this section in
 30 accordance with the general allocation formula on the basis of
 31 the general property tax equivalents of the transferor
 32 taxpayer.

33 e. Notwithstanding the provisions of this section, if
 34 during the tax year a person who was not a taxpayer during the
 35 prior tax year acquires a new major addition, as defined in

1 section 437A.3, subsection 17, paragraph "d", the replacement
2 tax associated with that major addition shall be allocated,
3 for that tax year, under this section in accordance with the
4 general allocating formula on the basis of the general
5 property tax equivalents established under section 437A.15,
6 except that the levy rates established and reported to the
7 department of management on or before June 30 following the
8 tax year in which the major addition was acquired shall be
9 applied to the prorated assessed value of the major addition
10 and provided that section 437A.19, subsection 2, paragraph
11 "b", subparagraph (2), is in any event applicable. For
12 purposes of this paragraph, "prorated assessed value of the
13 major addition" means the assessed value of the major addition
14 as of January 1 of the year following the tax year in which
15 the major addition was acquired multiplied by the percentage
16 derived by dividing the number of months that the major
17 addition existed during the tax year by twelve, counting any
18 portion of a month as a full month.

19 Sec. 7. Section 437A.19, subsection 2, paragraph b,
20 subparagraph (2), Code 2001, is amended to read as follows:

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

32 Sec. 8. Section 437A.21, subsection 1, unnumbered
33 paragraph 1, Code 2001, is amended to read as follows:

34 Each electric company, natural gas company, electric
35 cooperative, municipal utility, and other person whose

1 property is subject to the statewide property tax shall file
2 with the director a return, on or before ~~February-28~~ March 31
3 following the assessment year, including, but not limited to,
4 the following information:

5. Sec. 9. Section 437A.24, Code 2001, is amended to read as
6 follows:

7 437A.24 RECORDS.

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

20 Sec. 9. APPLICABILITY.

21 1. Section 1 of this Act is applicable to tax years
22 commencing on or after January 1, 2001.

23 2. Sections 2 and 3 of this Act are applicable for returns
24 due for tax years commencing on or after January 1, 2001.

25 3. Section 8 of this Act is applicable for returns due for
26 assessment years commencing on or after January 1, 2001.

27 EXPLANATION

28 This bill makes changes to Code chapter 437A, Taxes on
29 Electricity and Natural Gas Providers. The contents of this
30 bill are the proposal of the utility replacement tax task
31 force.

32 The bill makes changes to the definition of "assessed
33 value" in Code section 437A.3 to provide that certain property
34 of a municipal utility that is not a major addition was
35 initially assessed to the taxpayer as of January 1, 1998, and

1 is not located in a county where the taxpayer had property
2 that was assessed for purposes of Code chapter 437A as of
3 January 1, 1997, should have the value associated with the
4 1998 date. This change is applicable to tax years commencing
5 on or after January 1, 2001.

6 The bill changes certain filing dates for tax returns for
7 replacement taxes from February 28 to March 31 in Code
8 sections 437A.8 and 437A.21. These changes are applicable for
9 returns due for tax years and assessment years, respectively,
10 commencing on or after January 1, 2001.

11 The bill amends Code section 437A.8 to change the date by
12 which a generation and transmission electric cooperative must
13 notify the director if a distribution electric cooperative
14 member or a municipal utility purchasing member fails to make
15 timely payment of the replacement tax. The date is changed to
16 within 10 days after September 10 instead of the current
17 requirement of within 15 days of August 1. The bill expressly
18 requires such notice to be in writing, and also requires the
19 notice from the director to the generation and transmission
20 electric cooperative to be in writing, within five days after
21 delivery of notice to the director of nonpayment. The bill
22 deletes language that addresses a payment to a generation and
23 transmission electric cooperative that is less than all of the
24 required payment. The bill also specifies that the generation
25 and transmission electric cooperative must remit the amount
26 specified by the director to the appropriate county treasurer
27 by September 30. The bill also specifies the allowable
28 methods of notification and defines when a mailed notice is
29 considered to be delivered.

30 The bill amends Code section 437A.8 to require that all
31 electric companies, electric cooperatives, municipal
32 utilities, and natural gas companies file a replacement tax
33 return, regardless of the amount of the tax liability.

34 The bill amends Code section 437A.15 to change certain
35 dates, and to add paragraphs addressing replacement tax

1 allocation when operating property is transferred or acquired.

2 Code section 437A.19 is also amended to specify that its
3 provisions apply to transfers of less than a 100 percent
4 interest in an electric power generating plant.

5 The bill amends Code section 437A.24 to change the record
6 retention requirement for taxpayers subject to the replacement
7 tax or statewide property tax from 10 years to five years
8 following the filing of a return.

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S-4/26/01 W. & Moore
S-4/27/01 Do Pass

APR 19 2001
WAYS & MEANS CALENDAR

HOUSE FILE 731
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 175)

Passed House, Date (P.1570) 4/26/01 Passed Senate, Date (P.1431) 5/1/01
Vote: Ayes 92 Nays 0 Vote: Ayes 46 Nays 0
Approved 5/16/01

A BILL FOR

1 An Act regarding certain changes relating to the utility
2 replacement tax, and providing for the Act's applicability.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 731

1 Section 1. Section 437A.3, subsection 1, unnumbered
2 paragraph 1, Code 2001, is amended to read as follows:

3 "Assessed value" means the base year assessed value, as
4 adjusted by section 437A.19, subsection 2. "Base year
5 assessed value", for a taxpayer other than an electric
6 company, natural gas company, or electric cooperative, means
7 the value attributable to property identified in section
8 427A.1, subsection 1, paragraph "h", certified by the
9 department of revenue and finance to the county auditors for
10 the assessment date of January 1, 1997, and the value
11 attributable to property identified in section 427A.1 and
12 section 427B.17, subsection 5, as certified by the local
13 assessors to the county auditors for the assessment date of
14 January 1, 1997, provided, that for a taxpayer subject to
15 section 437A.17A, such value shall be the value certified by
16 the department of revenue and finance and local assessors to
17 the county auditors for the assessment date of January 1,
18 1998. However, "base year assessed value", for purposes of
19 property of a taxpayer that is a municipal utility, if the
20 property is not a major addition, and the property was
21 initially assessed to the taxpayer as of January 1, 1998, and
22 is not located in a county where the taxpayer had property
23 that was assessed for purposes of this chapter as of January
24 1, 1997, means the value attributable to such property for the
25 assessment date of January 1, 1998.

26 Sec. 2. Section 437A.3, subsection 17, paragraph d, Code
27 2001, is amended to read as follows:

28 d. Any operating property described in section 437A.16 in
29 this state by a person not previously subject to taxation
30 under this chapter.

31 Sec. 3. Section 437A.6, Code 2001, is amended by adding
32 the following new subsections:

33 NEW SUBSECTION. 4. In lieu of the replacement generation
34 tax imposed in subsection 1, a replacement generation tax of
35 one thousand eight hundred forty-seven ten-thousandths of a

1 cent per kilowatt-hour of electricity generated within this
2 state during the tax year is imposed on every hydroelectric
3 generating power plant with a generating capacity of one
4 hundred megawatts or greater.

5 NEW SUBSECTION. 5. In lieu of the replacement generation
6 tax imposed in subsection 1, a replacement generation tax of
7 one thousand ninety-nine ten-thousandths of a cent per
8 kilowatt-hour of electricity generated within this state
9 during the tax year is imposed on every electric company which
10 owns a joint interest in an electric power generating plant in
11 this state and which has a joint interest in less than five
12 pole miles of transmission lines in this state.

13 Sec. 4. Section 437A.7, subsection 2, paragraph c, Code
14 2001, is amended to read as follows:

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 Sec. 5. Section 437A.8, subsection 1, unnumbered paragraph
20 1, Code 2001, is amended to read as follows:

21 Each taxpayer, on or before ~~February-28~~ March 31 following
22 a tax year, shall file with the director a return including,
23 but not limited to, the following information:

24 Sec. 6. Section 437A.8, subsection 2, unnumbered paragraph
25 1, Code 2001, is amended to read as follows:

26 Each taxpayer subject to a municipal transfer replacement
27 tax, on or before ~~February-28~~ March 31 following a tax year,
28 shall file with the chief financial officer of each city
29 located within an electric or natural gas competitive service
30 area served by a municipal utility as of January 1, 1999, a
31 return including, but not limited to, the following
32 information:

33 Sec. 7. Section 437A.8, subsection 4, unnumbered
34 paragraphs 2 and 3, Code 2001, are amended to read as follows:

35 If a distribution electric cooperative member or a

1 municipal utility purchasing member subject to section
2 437A.15, subsection 3, paragraph "b", does not make timely
3 payment of the correct amount of replacement tax to the
4 generation and transmission electric cooperative and the
5 generation and transmission electric cooperative so notifies
6 the director and the appropriate county treasurer within
7 fifteen days after August 17 and timely remits to the county
8 treasurer the amounts of replacement tax received by the
9 generation and transmission electric cooperative in accordance
10 with section 437A.15, subsection 3, paragraph "b", the
11 generation and transmission electric cooperative shall not be
12 liable for the unpaid replacement tax due from the
13 distribution electric cooperative member or municipal utility
14 purchasing member. -- The generation and transmission electric
15 cooperative shall also not be liable for a special utility
16 property tax levy, if any, and shall not be entitled to a tax
17 credit, if any, attributable to the unpaid replacement tax.
18 The county treasurer and the director shall enforce payment of
19 the replacement tax against the appropriate distribution
20 electric cooperative member or municipal utility purchasing
21 member pursuant to sections 437A.9 through 437A.13. -- The
22 county treasurer shall enforce payment of the special utility
23 property tax levy, if any, against the appropriate
24 distribution electric cooperative member or municipal utility
25 purchasing member.

26 If a generation and transmission electric cooperative
27 receives some, but not all, of the required payment from a
28 distribution electric cooperative member or a municipal
29 utility purchasing member, the generation and transmission
30 electric cooperative shall notify the director in writing
31 within fifteen ten days after August 1 September 10. The
32 director shall then notify the generation and transmission
33 electric cooperative in writing within five days after
34 delivery of notice to the director of the paid amount to be
35 remitted to the appropriate county treasurer and shall also

1 notify the county treasurer. The generation and transmission
2 electric cooperative shall remit the amount determined by the
3 director to the appropriate county treasurer by September 30.
4 If the generation and transmission electric cooperative timely
5 notifies the director and timely remits to the county
6 treasurer the amounts of replacement tax, as determined by the
7 director, the generation and transmission electric cooperative
8 shall not be liable for that unpaid replacement tax due from
9 the distribution electric cooperative member or municipal
10 utility purchasing member. The generation and transmission
11 electric cooperative shall also not be liable for a special
12 utility property tax levy, if any, and shall not be entitled
13 to a tax credit, if any, attributable to the unpaid
14 replacement tax. The county treasurer and the director shall
15 enforce payment of the replacement tax against the appropriate
16 distribution electric cooperative member or municipal utility
17 purchasing member pursuant to sections 437A.9 through 437A.13.
18 The county treasurer shall enforce payment of the special
19 utility property tax levy, if any, against the appropriate
20 distribution electric cooperative member or municipal utility
21 purchasing member. For purposes of this paragraph:
22 a. Written notice to the director must be either delivered
23 to the director by electronic means, United States postal
24 service, or a common carrier, by ordinary, certified, or
25 registered mail directed to the attention of the director, be
26 personally delivered to the director, or be served on the
27 director by personal service during business hours. If the
28 notice is mailed, a notice is considered delivered on the date
29 of the postmark. If a postmark date is not present on the
30 mailed article, the date of receipt of notice shall be
31 considered the date of the mailing. A notice is considered
32 delivered on the date personal service or personal delivery to
33 the office of the director is made.
34 b. Written notice to a generation and transmission
35 electric cooperative must be delivered to the cooperative by

1 electronic means, United States postal service, or a common
2 carrier, by ordinary, certified, or registered mail, directed
3 to the attention of the manager of the cooperative, be
4 personally delivered to the manager of the cooperative, or be
5 served on the manager of the cooperative by personal service
6 during business hours. For the purpose of mailing, a notice
7 is considered delivered on the date of the postmark. If a
8 postmark date is not present on the mailed article, the date
9 of receipt of notice shall be considered the date of the
10 mailing. A notice is considered delivered on the date
11 personal service or personal delivery to the office of the
12 manager of the cooperative is made.

13 Sec. 8. Section 437A.8, subsection 6, Code 2001, is
14 amended to read as follows:

15 6. Notwithstanding subsections 1 through 5, a taxpayer
16 shall not be required to file a return otherwise required by
17 this section or remit any replacement tax for any tax year in
18 which the taxpayer's replacement tax liability before credits
19 is three hundred dollars or less, provided that all electric
20 companies, electric cooperatives, municipal utilities, and
21 natural gas companies shall file a return, regardless of the
22 taxpayer's replacement tax liability.

23 Sec. 9. Section 437A.15, subsection 3, Code 2001, is
24 amended to read as follows:

25 3. a. All replacement taxes owed by a taxpayer shall be
26 allocated among the local taxing districts in which such
27 taxpayer's property is located in accordance with a general
28 allocation formula determined by the department of management
29 on the basis of general property tax equivalents. General
30 property tax equivalents shall be determined by applying the
31 levy rates reported by each local taxing district to the
32 department of management on or before June 30 following a tax
33 year to the assessed value of taxpayer property allocated to
34 each such local taxing district as adjusted and reported to
35 the department of management in such tax year by the director

1 pursuant to section 437A.19, subsection 2. The general
2 allocation formula for a tax year shall allocate to each local
3 taxing district that portion of the replacement taxes owed by
4 each taxpayer which bears the same ratio as such taxpayer's
5 general property tax equivalents for each local taxing
6 district bears to such taxpayer's total general property tax
7 equivalents for all local taxing districts in Iowa.

8 b. Notwithstanding other provisions of this section, if
9 excess property tax liability has been assigned pursuant to
10 section 437A.4, subsection 3, paragraph "c", subparagraph (4),
11 and has not been removed, the allocation of electric delivery
12 replacement tax attributable to the excess property tax
13 liability shall be made by the director and the department of
14 management so as to allocate the electric delivery replacement
15 tax attributable to the excess property tax liability among
16 those local taxing districts in which the property associated
17 with the excess property tax liability is located. In order
18 to ensure that the electric delivery replacement tax
19 attributable to the excess property tax liability is paid to
20 the appropriate county treasurer for disposition to the local
21 taxing districts, each distribution electric cooperative
22 member and each municipal utility purchasing member subject to
23 section 437A.4, subsection 3, paragraph "c", subparagraph (4),
24 shall pay to the appropriate generation and transmission
25 electric cooperative the electric delivery replacement tax
26 attributable to the excess property tax liability by ~~August-1~~
27 September 10. The amount of electric delivery replacement tax
28 attributable to the excess property tax liability shall equal
29 that percentage of total electric delivery replacement tax
30 liability that the excess property tax liability bears to the
31 total property tax liability contained in the electric
32 delivery tax component. The generation and transmission
33 electric cooperative shall pay the electric delivery
34 replacement tax attributable to the excess property tax
35 liability to the appropriate county treasurer.

1 c. If paragraph "b" is applicable, on or before ~~June 1~~
2 August 1, the director shall notify each distribution electric
3 cooperative member, each municipal utility purchasing member,
4 and each generation and transmission electric cooperative of
5 the amount of electric delivery replacement tax to pay to the
6 generation and transmission electric cooperative. On or
7 before ~~June 1~~ August 1, the director shall notify the
8 generation and transmission electric cooperative of the amount
9 of replacement tax liability attributable to the excess
10 property tax liability that is payable to each county
11 treasurer. The director shall determine the amount of any
12 special utility property tax levy or tax credit attributable
13 to the excess property tax liability which shall be reflected
14 in the amount required to be paid by each distribution
15 electric cooperative member and each municipal utility
16 purchasing member to the generation and transmission electric
17 cooperative.

18 d. If, during the tax year, a taxpayer transferred
19 operating property or an interest in operating property to
20 another taxpayer, the transferee taxpayer's replacement tax
21 associated with that property shall be allocated, for the tax
22 year in which the transfer occurred, under this section in
23 accordance with the general allocation formula on the basis of
24 the general property tax equivalents of the transferor
25 taxpayer.

26 e. Notwithstanding the provisions of this section, if
27 during the tax year a person who was not a taxpayer during the
28 prior tax year acquires a new major addition, as defined in
29 section 437A.3, subsection 17, paragraph "d", the replacement
30 tax associated with that major addition shall be allocated,
31 for that tax year, under this section in accordance with the
32 general allocating formula on the basis of the general
33 property tax equivalents established under section 437A.15,
34 except that the levy rates established and reported to the
35 department of management on or before June 30 following the

1 tax year in which the major addition was acquired shall be
2 applied to the prorated assessed value of the major addition
3 and provided that section 437A.19, subsection 2, paragraph
4 "b", subparagraph (2), is in any event applicable. For
5 purposes of this paragraph, "prorated assessed value of the
6 major addition" means the assessed value of the major addition
7 as of January 1 of the year following the tax year in which
8 the major addition was acquired multiplied by the percentage
9 derived by dividing the number of months that the major
10 addition existed during the tax year by twelve, counting any
11 portion of a month as a full month.

12 Sec. 10. Section 437A.19, subsection 2, paragraph b,
13 subparagraph (2), Code 2001, is amended to read as follows:

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

25 Sec. 11. Section 437A.21, subsection 1, unnumbered
26 paragraph 1, Code 2001, is amended to read as follows:

27 Each electric company, natural gas company, electric
28 cooperative, municipal utility, and other person whose
29 property is subject to the statewide property tax shall file
30 with the director a return, on or before ~~February-28~~ March 31
31 following the assessment year, including, but not limited to,
32 the following information:

33 Sec. 12. Section 437A.24, Code 2001, is amended to read as
34 follows:

35 437A.24 RECORDS.

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

13 Sec. 13. APPLICABILITY.

14 1. Section 1 of this Act is applicable to tax years
15 commencing on or after January 1, 2001.

16 2. Section 3 of this Act is applicable to tax years
17 commencing on or after January 1, 2001.

18 3. Section 4 of this Act is applicable to tax years and
19 assessment years commencing on or after January 1, 2001.

20 4. Sections 5 and 6 of this Act are applicable for returns
21 due for tax years commencing on or after January 1, 2001.

22 5. Section 11 of this Act is applicable for returns due
23 for assessment years commencing on or after January 1, 2001.

24 EXPLANATION

25 This bill makes changes to Code chapter 437A, Taxes on
26 Electricity and Natural Gas Providers. The contents of this
27 bill are the proposal of the utility replacement tax task
28 force.

29 The bill makes changes to the definition of "assessed
30 value" in Code section 437A.3 to provide that certain property
31 of a municipal utility that is not a major addition was
32 initially assessed to the taxpayer as of January 1, 1998, and
33 is not located in a county where the taxpayer had property
34 that was assessed for purposes of Code chapter 437A as of
35 January 1, 1997, should have the value associated with the

1 1998 date. This change is applicable to tax years commencing
2 on or after January 1, 2001.

3 The bill makes changes to the definition of "major
4 addition", with respect to the acquisition of property
5 described in Code section 437A.16, which addresses all
6 operating property and all other property that is primarily
7 and directly used in the production, generation, transmission,
8 or delivery of electricity or natural gas subject to
9 replacement tax or transfer replacement tax.

10 The bill adds new subsections to Code section 437A.6 to
11 provide for a replacement generation tax on hydroelectric
12 power plants with a generating capacity of 100 megawatts or
13 greater, and on electric companies that own a joint interest
14 in an electric power generating plant in this state and that
15 has a joint interest in less than five pole miles of
16 transmission lines in this state. These changes are
17 applicable to tax years commencing on or after January 1,
18 2001.

19 The bill amends Code section 437A.7 to provide that
20 electric cooperatives that own, lease, or own and lease less
21 than 750 pole miles of transmission lines in this state shall
22 be exempt from the transmission replacement tax imposed under
23 Code section 437A.7, rather than electric cooperatives that
24 own, lease, or own and lease between 50 and 750 pole miles of
25 transmission lines. This change is applicable to tax years
26 and assessment years commencing on or after January 1, 2001.

27 The bill changes certain filing dates for tax returns for
28 replacement taxes from February 28 to March 31 in Code
29 sections 437A.8 and 437A.21. These changes are applicable for
30 returns due for tax years and assessment years, respectively,
31 commencing on or after January 1, 2001.

32 The bill amends Code section 437A.8 to change the date by
33 which a generation and transmission electric cooperative must
34 notify the director if a distribution electric cooperative
35 member or a municipal utility purchasing member fails to make

1 timely payment of the replacement tax. The date is changed to
2 within 10 days after September 10 instead of the current
3 requirement of within 15 days of August 1. The bill expressly
4 requires such notice to be in writing, and also requires the
5 notice from the director to the generation and transmission
6 electric cooperative to be in writing, within five days after
7 delivery of notice to the director of nonpayment. The bill
8 deletes language that addresses a payment to a generation and
9 transmission electric cooperative that is less than all of the
10 required payment. The bill also specifies that the generation
11 and transmission electric cooperative must remit the amount
12 specified by the director to the appropriate county treasurer
13 by September 30. The bill also specifies the allowable
14 methods of notification and defines when a mailed notice is
15 considered to be delivered.

16 The bill amends Code section 437A.8 to require that all
17 electric companies, electric cooperatives, municipal
18 utilities, and natural gas companies file a replacement tax
19 return, regardless of the amount of the tax liability.

20 The bill amends Code section 437A.15 to change certain
21 dates, and to add paragraphs addressing replacement tax
22 allocation when operating property is transferred or acquired.

23 Code section 437A.19 is also amended to specify that its
24 provisions apply to transfers of less than a 100 percent
25 interest in an electric power generating plant.

26 The bill amends Code section 437A.24 to change the record
27 retention requirement for taxpayers subject to the replacement
28 tax or statewide property tax from 10 years to five years
29 following the filing of a return.

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HOUSE FILE 731

AN ACT

REGARDING CERTAIN CHANGES RELATING TO THE UTILITY REPLACEMENT TAX, AND PROVIDING FOR THE ACT'S APPLICABILITY.

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

Section 1. Section 437A.3, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

"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, provided, that for a taxpayer subject to section 437A.17A, such value shall be the value certified by the department of revenue and finance and local assessors to the county auditors for the assessment date of January 1,

1998. However, "base year assessed value", for purposes of property of a taxpayer that is a municipal utility, if the property is not a major addition, and the property was initially assessed to the taxpayer as of January 1, 1998, and is not located in a county where the taxpayer had property that was assessed for purposes of this chapter as of January 1, 1997, means the value attributable to such property for the assessment date of January 1, 1998.

Sec. 2. Section 437A.3, subsection 17, paragraph d, Code 2001, is amended to read as follows:

d. Any operating property described in section 437A.16 in this state by a person not previously subject to taxation under this chapter.

Sec. 3. Section 437A.6, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 4. In lieu of the replacement generation tax imposed in subsection 1, a replacement generation tax of one thousand eight hundred forty-seven ten-thousandths of a cent per kilowatt-hour of electricity generated within this state during the tax year is imposed on every hydroelectric generating power plant with a generating capacity of one hundred megawatts or greater.

NEW SUBSECTION. 5. In lieu of the replacement generation tax imposed in subsection 1, a replacement generation tax of one thousand ninety-nine ten-thousandths of a cent per kilowatt-hour of electricity generated within this state during the tax year is imposed on every electric company which owns a joint interest in an electric power generating plant in this state and which has a joint interest in less than five pole miles of transmission lines in this state.

Sec. 4. Section 437A.7, subsection 2, paragraph c, Code 2001, is amended to read as follows:

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.

Sec. 5. Section 437A.8, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Each taxpayer, on or before ~~February 28~~ March 31 following a tax year, shall file with the director a return including, but not limited to, the following information:

Sec. 6. Section 437A.8, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Each taxpayer subject to a municipal transfer replacement tax, on or before ~~February 28~~ March 31 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:

Sec. 7. Section 437A.8, subsection 4, unnumbered paragraphs 2 and 3, Code 2001, are amended to read as follows:

If a distribution electric cooperative member or a municipal utility purchasing member subject to section 437A.15, subsection 3, paragraph "b", does not make timely payment of the correct amount of replacement tax to the generation and transmission electric cooperative and the generation and transmission electric cooperative so notifies the director and the appropriate county treasurer within fifteen days after August 1, and timely remits to the county treasurer the amounts of replacement tax received by the generation and transmission electric cooperative in accordance with section 437A.15, subsection 3, paragraph "b", the generation and transmission electric cooperative shall not be liable for the unpaid replacement tax due from the distribution electric cooperative member or municipal utility purchasing member. The generation and transmission electric cooperative shall also not be liable for a special utility property tax levy, if any, and shall not be entitled to a tax credit, if any, attributable to the unpaid replacement tax. The county treasurer and the director shall enforce payment of

the replacement tax against the appropriate distribution electric cooperative member or municipal utility purchasing member pursuant to sections 437A.9 through 437A.13. The county treasurer shall enforce payment of the special utility property tax levy, if any, against the appropriate distribution electric cooperative member or municipal utility purchasing member.

If a generation and transmission electric cooperative receives some, but not all, of the required payment from a distribution electric cooperative member or a municipal utility purchasing member, the generation and transmission electric cooperative shall notify the director in writing within fifteen ten days after ~~August 1~~ September 10. The director shall then notify the generation and transmission electric cooperative in writing within five days after delivery of notice to the director of the paid amount to be remitted to the appropriate county treasurer and shall also notify the county treasurer. The generation and transmission electric cooperative shall remit the amount determined by the director to the appropriate county treasurer by September 30. If the generation and transmission electric cooperative timely notifies the director and timely remits to the county treasurer the amounts of replacement tax, as determined by the director, the generation and transmission electric cooperative shall not be liable for that unpaid replacement tax due from the distribution electric cooperative member or municipal utility purchasing member. The generation and transmission electric cooperative shall also not be liable for a special utility property tax levy, if any, and shall not be entitled to a tax credit, if any, attributable to the unpaid replacement tax. The county treasurer and the director shall enforce payment of the replacement tax against the appropriate distribution electric cooperative member or municipal utility purchasing member pursuant to sections 437A.9 through 437A.13. The county treasurer shall enforce payment of the special

utility property tax levy, if any, against the appropriate distribution electric cooperative member or municipal utility purchasing member. For purposes of this paragraph:

a. Written notice to the director must be either delivered to the director by electronic means, United States postal service, or a common carrier, by ordinary, certified, or registered mail directed to the attention of the director, be personally delivered to the director, or be served on the director by personal service during business hours. If the notice is mailed, a notice is considered delivered on the date of the postmark. If a postmark date is not present on the mailed article, the date of receipt of notice shall be considered the date of the mailing. A notice is considered delivered on the date personal service or personal delivery to the office of the director is made.

b. Written notice to a generation and transmission electric cooperative must be delivered to the cooperative by electronic means, United States postal service, or a common carrier, by ordinary, certified, or registered mail, directed to the attention of the manager of the cooperative, be personally delivered to the manager of the cooperative, or be served on the manager of the cooperative by personal service during business hours. For the purpose of mailing, a notice is considered delivered on the date of the postmark. If a postmark date is not present on the mailed article, the date of receipt of notice shall be considered the date of the mailing. A notice is considered delivered on the date personal service or personal delivery to the office of the manager of the cooperative is made.

Sec. 8. Section 437A.8, subsection 6, Code 2001, is amended to read as follows:

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, provided that all electric companies, electric cooperatives, municipal utilities, and natural gas companies shall file a return, regardless of the taxpayer's replacement tax liability.

Sec. 9. Section 437A.15, subsection 3, Code 2001, is amended to read as follows:

3. a. 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.

b. Notwithstanding other provisions of this section, if excess property tax liability has been assigned pursuant to section 437A.4, subsection 3, paragraph "c", subparagraph (4), and has not been removed, the allocation of electric delivery replacement tax attributable to the excess property tax liability shall be made by the director and the department of management so as to allocate the electric delivery replacement tax attributable to the excess property tax liability among those local taxing districts in which the property associated with the excess property tax liability is located. In order to ensure that the electric delivery replacement tax

attributable to the excess property tax liability is paid to the appropriate county treasurer for disposition to the local taxing districts, each distribution electric cooperative member and each municipal utility purchasing member subject to section 437A.4, subsection 3, paragraph "c", subparagraph (4), shall pay to the appropriate generation and transmission electric cooperative the electric delivery replacement tax attributable to the excess property tax liability by ~~August-1~~ September 10. The amount of electric delivery replacement tax attributable to the excess property tax liability shall equal that percentage of total electric delivery replacement tax liability that the excess property tax liability bears to the total property tax liability contained in the electric delivery tax component. The generation and transmission electric cooperative shall pay the electric delivery replacement tax attributable to the excess property tax liability to the appropriate county treasurer.

c. If paragraph "b" is applicable, on or before ~~June-1~~ August 1, the director shall notify each distribution electric cooperative member, each municipal utility purchasing member, and each generation and transmission electric cooperative of the amount of electric delivery replacement tax to pay to the generation and transmission electric cooperative. On or before ~~June-1~~ August 1, the director shall notify the generation and transmission electric cooperative of the amount of replacement tax liability attributable to the excess property tax liability that is payable to each county treasurer. The director shall determine the amount of any special utility property tax levy or tax credit attributable to the excess property tax liability which shall be reflected in the amount required to be paid by each distribution electric cooperative member and each municipal utility purchasing member to the generation and transmission electric cooperative.

d. If, during the tax year, a taxpayer transferred operating property or an interest in operating property to another taxpayer, the transferee taxpayer's replacement tax associated with that property shall be allocated, for the tax year in which the transfer occurred, under this section in accordance with the general allocation formula on the basis of the general property tax equivalents of the transferor taxpayer.

e. Notwithstanding the provisions of this section, if during the tax year a person who was not a taxpayer during the prior tax year acquires a new major addition, as defined in section 437A.3, subsection 17, paragraph "d", the replacement tax associated with that major addition shall be allocated, for that tax year, under this section in accordance with the general allocating formula on the basis of the general property tax equivalents established under section 437A.15, except that the levy rates established and reported to the department of management on or before June 30 following the tax year in which the major addition was acquired shall be applied to the prorated assessed value of the major addition and provided that section 437A.19, subsection 2, paragraph "b", subparagraph (2), is in any event applicable. For purposes of this paragraph, "prorated assessed value of the major addition" means the assessed value of the major addition as of January 1 of the year following the tax year in which the major addition was acquired multiplied by the percentage derived by dividing the number of months that the major addition existed during the tax year by twelve, counting any portion of a month as a full month.

Sec. 10. Section 437A.19, subsection 2, paragraph b, subparagraph (2), Code 2001, is amended to read as follows:

(2) If, during the preceding calendar year, a taxpayer transferred an electric power generating plant or an interest in 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.

Sec. 11. Section 437A.21, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

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~~ March 31 following the assessment year, including, but not limited to, the following information:

Sec. 12. Section 437A.24, Code 2001, is amended to read as follows:

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 five 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. 13. APPLICABILITY.

1. Section 1 of this Act is applicable to tax years commencing on or after January 1, 2001.

2. Section 3 of this Act is applicable to tax years commencing on or after January 1, 2001.

3. Section 4 of this Act is applicable to tax years and assessment years commencing on or after January 1, 2001.

4. Sections 5 and 6 of this Act are applicable for returns due for tax years commencing on or after January 1, 2001.

5. Section 11 of this Act is applicable for returns due for assessment years commencing on or after January 1, 2001.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 731, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 5/16, 2001

THOMAS J. VILSACK
Governor