

Withdrawn 4/23/03

MAR 4 2003
WAYS AND MEANS

HOUSE FILE 399
BY COMMITTEE ON ECONOMIC
GROWTH

(SUCCESSOR TO HSB 58)

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

A BILL FOR

1 An Act relating to the new jobs and income program and providing
2 a tax credit.

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

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HF 399

1 Section 1. Section 15.330, Code 2003, is amended to read
2 as follows:

3 15.330 AGREEMENT -- NONCOMPLIANCE -- PENALTIES.

4 1. A business or group of businesses shall enter into an
5 agreement with the department specifying the requirements
6 which must be met to satisfy the criteria of section 15.329.
7 The department shall consult with the community during
8 negotiations relating to the agreement. The agreement shall
9 contain the following provisions:

10 ~~1. a.~~ If the business or group of businesses has not met
11 more than ninety percent of the job creation requirement in
12 section 15.329, subsection 1, paragraph "f", it shall pay a
13 percentage of the incentive received ~~under section 15.3347 or~~
14 ~~if the business or group of businesses does not receive the~~
15 ~~incentive under section 15.3347, then~~ under section 15.333 as
16 follows:

17 ~~a.~~ (1) If the business or group of businesses has met
18 fifty percent or less of the requirement, the business or
19 group of businesses shall pay the same percentage in benefits
20 as the business or group of businesses failed to create in
21 jobs.

22 ~~b.~~ (2) If the business or group of businesses has met more
23 than fifty percent but not more than seventy-five percent of
24 the requirement, the business or group of businesses shall pay
25 one-half of the percentage in benefits as the business or
26 group of businesses failed to create in jobs.

27 ~~c.~~ (3) If the business or group of businesses has met more
28 than seventy-five percent but not more than ninety percent of
29 the requirement, the business or group of businesses shall pay
30 one quarter of the percentage in benefits as the business or
31 group of businesses failed to create in jobs.

32 ~~2.~~ b. If a business or group of businesses does not meet
33 the wage requirement of section 15.329, subsection 1, or any
34 of the three criteria selected by the business or group of
35 businesses under section 15.329, subsection 2, in any one

1 year, it must meet that requirement in the following year or
2 forfeit the incentives for that year.

3 c. If a business or group of businesses approved to
4 receive incentives under this part experiences a layoff within
5 the state or closes any of its facilities within the state
6 prior to receiving the incentives, the department may reduce
7 or eliminate some or all of the incentives. If a business or
8 group of businesses receives incentives under this part and
9 experiences a layoff within the state or closes any of its
10 facilities within the state, the business or group of
11 businesses may be subject to repayment of some or all of the
12 incentives received by the business or group of businesses.

13 2. The department shall adopt rules for repayment of
14 incentives by the business or group of businesses if the
15 business or group of businesses has not met any of the
16 requirements of this part.

17 Sec. 2. NEW SECTION. 15.333B FRANCHISE TAX CREDITS.

18 1. An eligible business may claim a franchise tax credit
19 up to a maximum of ten percent of the new investment directly
20 related to new jobs created by the location or expansion of an
21 eligible business under the program. Any credit in excess of
22 the tax liability for the tax year may be credited to the tax
23 liability for the following seven years or until depleted,
24 whichever occurs earlier.

25 For purposes of this section, "new investment directly
26 related to new jobs created by the location or expansion of an
27 eligible business under the program" means the cost of
28 machinery and equipment, as described in section 427A.1,
29 subsection 1, paragraphs "e" and "j", purchased for use in the
30 operation of the eligible business, the purchase price of
31 which has been depreciated in accordance with generally
32 accepted accounting principles, and the cost of improvements
33 made to real property which is used in the operation of the
34 eligible business.

35 For purposes of this section, the purchase price of real

1 property and any buildings and structures located on the real
2 property is considered a "new investment in the location or
3 expansion of an eligible business". However, if within five
4 years of purchase, the eligible business sells, disposes of,
5 razes, or otherwise renders unusable all or a part of the
6 land, buildings, or other existing structures for which a
7 franchise tax credit was claimed under this section, the
8 franchise tax liability of the eligible business for the year
9 in which all or part of the property is sold, disposed of,
10 razed, or otherwise rendered unusable shall be increased by
11 one of the following amounts:

12 a. One hundred percent of the tax credit claimed under
13 this section if the property ceases to be eligible for the tax
14 credit within one year after being placed in service.

15 b. Eighty percent of the tax credit claimed under this
16 section if the property ceases to be eligible for the tax
17 credit within two years after being placed in service.

18 c. Sixty percent of the tax credit claimed under this
19 section if the property ceases to be eligible for the tax
20 credit within three years after being placed in service.

21 d. Forty percent of the tax credit claimed under this
22 section if the property ceases to be eligible for the tax
23 credit within four years after being placed in service.

24 e. Twenty percent of the tax credit claimed under this
25 section if the property ceases to be eligible for the tax
26 credit within five years after being placed in service.

27 2. An eligible business which has entered into an
28 agreement under chapter 260E and which has increased its base
29 employment level by at least ten percent within the time set
30 in the agreement or, in the case of a business without a base
31 employment level, adds new jobs within the time set in the
32 agreement is entitled to a new jobs franchise tax credit for
33 the tax year selected by the business. In determining if the
34 business has increased its base employment level by ten
35 percent or added new jobs, only the new jobs directly

1 resulting from the project covered by the agreement and the
2 new jobs directly related to those new jobs shall be counted.
3 The amount of the credit is equal to the product of six
4 percent of the taxable wages upon which an employer is
5 required to contribute to the state unemployment compensation
6 fund, as defined in section 96.19, subsection 37, times the
7 number of new jobs existing in the tax year that directly
8 result from the project covered by the agreement or new jobs
9 that directly result from those new jobs. The tax year chosen
10 by the business shall either begin or end during the period
11 beginning with the date by which the project is to be
12 completed under the agreement. Any credit in excess of the
13 tax liability for the tax year may be credited to the tax
14 liability for the following seven years or until depleted,
15 whichever occurs earlier. For purposes of this subsection,
16 "agreement", "new job", and "project" mean the same as defined
17 in section 260E.2 and "base employment level" means the number
18 of full-time jobs a business employs at the site which is
19 covered by an agreement under chapter 260E on the date of that
20 agreement.

21 Sec. 3. Section 422.60, Code 2003, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 7. The taxes imposed under this division
24 shall be reduced by a franchise tax credit authorized pursuant
25 to section 15.333B.

26 Sec. 4. Section 427B.17, subsection 5, unnumbered
27 paragraph 2, Code 2003, is amended to read as follows:

28 Any electric power generating plant which operated during
29 the preceding assessment year at a net capacity factor of more
30 than twenty percent, shall not receive the benefits of this
31 section or of sections section 15.332 ~~and 15.334~~. For
32 purposes of this section, "electric power generating plant"
33 means any nameplate rated electric power generating plant, in
34 which electric energy is produced from other forms of energy,
35 including all taxable land, buildings, and equipment used in

1 the production of such energy. "Net capacity factor" means
2 net actual generation divided by the product of net maximum
3 capacity times the number of hours the unit was in the active
4 state during the assessment year. Upon commissioning, a unit
5 is in the active state until it is decommissioned. "Net
6 actual generation" means net electrical megawatt hours
7 produced by the unit during the preceding assessment year.
8 "Net maximum capacity" means the capacity the unit can sustain
9 over a specified period when not restricted by ambient
10 conditions or equipment deratings, minus the losses associated
11 with station service or auxiliary loads.

12 Sec. 5. Sections 15.334 and 15.334A, Code 2003, are
13 repealed.

14 EXPLANATION

15 This bill makes statutory changes to the new jobs and
16 income program administered by the department of economic
17 development.

18 The bill adds a requirement to be included in new jobs and
19 income program agreements. The bill provides that agreements
20 shall include a provision that if a business or group of
21 businesses is approved to receive or actually receives
22 incentives under the program and the business or group of
23 businesses experiences a layoff within the state or closes any
24 of its facilities within the state, the department may reduce
25 or eliminate incentives that have not yet been received or may
26 require repayment of some or all of the incentives received.

27 The bill allows an eligible business under the program to
28 claim a tax credit of up to 10 percent of the new investment
29 directly related to new jobs created by the location or
30 expansion of an eligible business under the program. The bill
31 provides that new investment directly related to new jobs
32 means the cost of machinery and equipment purchased for use in
33 the operation of the eligible business. The eligible business
34 may claim the tax credit against franchise tax liability for
35 financial institutions. The bill allows the tax credit to be

1 carried forward for a period of seven years or until depleted,
2 whichever occurs first. The bill allows the purchase price of
3 real property and any buildings and structures located on the
4 real property to be considered new investment in the location
5 or expansion of an eligible business, unless, within five
6 years of purchase, the eligible business sells, disposes of,
7 razes, or otherwise renders unusable the real property, in
8 which case the franchise tax liability is increased by a
9 certain percentage of the tax credit claimed. The bill allows
10 an eligible business which has entered into an agreement under
11 Code chapter 260E and which has increased its base employment
12 level by at least 10 percent within the time set in the
13 agreement or, in the case of a business without a base
14 employment level, adds new jobs within the time set in the
15 agreement to claim a new jobs franchise tax credit for a tax
16 year selected by the business.

17 The bill repeals two provisions in the new jobs and income
18 program relating to a property tax exemption and a sales and
19 use tax exemption for machinery, equipment, and computers.
20 The bill makes conforming amendments to the repeals.

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Smith, Chr.
Lukan
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Succeeded By
SF 399

HSB 58
ECONOMIC GROWTH

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

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

A BILL FOR

1 An Act relating to the new jobs and income program and including
2 effective and retroactive applicability date provisions.

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

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1 Section 1. Section 15.330, Code 2003, is amended to read
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3 15.330 AGREEMENT -- NONCOMPLIANCE -- PENALTIES.

4 1. A business or group of businesses shall enter into an
5 agreement with the department specifying the requirements
6 which must be met to satisfy the criteria of section 15.329.
7 The department shall consult with the community during
8 negotiations relating to the agreement. The agreement shall
9 contain the following provisions:

10 ~~1. a.~~ If the business or group of businesses has not met
11 more than ninety percent of the job creation requirement in
12 section 15.329, subsection 1, paragraph "f", it shall pay a
13 percentage of the incentive received ~~under section 15.334, or~~
14 ~~if the business or group of businesses does not receive the~~
15 ~~incentive under section 15.334, then~~ under section 15.333 as
16 follows:

17 ~~a. (1)~~ If the business or group of businesses has met
18 fifty percent or less of the requirement, the business or
19 group of businesses shall pay the same percentage in benefits
20 as the business or group of businesses failed to create in
21 jobs.

22 ~~b. (2)~~ If the business or group of businesses has met more
23 than fifty percent but not more than seventy-five percent of
24 the requirement, the business or group of businesses shall pay
25 one-half of the percentage in benefits as the business or
26 group of businesses failed to create in jobs.

27 ~~c. (3)~~ If the business or group of businesses has met more
28 than seventy-five percent but not more than ninety percent of
29 the requirement, the business or group of businesses shall pay
30 one quarter of the percentage in benefits as the business or
31 group of businesses failed to create in jobs.

32 ~~2. b.~~ If a business or group of businesses does not meet
33 the wage requirement of section 15.329, subsection 1, or any
34 of the three criteria selected by the business or group of
35 businesses under section 15.329, subsection 2, in any one

1 year, it must meet that requirement in the following year or
2 forfeit the incentives for that year.

3 c. If a business or group of businesses approved to
4 receive incentives under this part experiences a layoff within
5 the state or closes any of its facilities within the state
6 prior to receiving the incentives, the department may reduce
7 or eliminate some or all of the incentives. If a business or
8 group of businesses receives incentives under this part and
9 experiences a layoff within the state or closes any of its
10 facilities within the state, the business or group of
11 businesses may be subject to repayment of some or all of the
12 incentives received by the business or group of businesses.

13 2. The department shall adopt rules for repayment of
14 incentives by the business or group of businesses if the
15 business or group of businesses has not met any of the
16 requirements of this part.

17 Sec. 2. Section 15.331B, subsection 3, Code 2003, is
18 amended to read as follows:

19 3. An eligible business shall not receive the exemption
20 under this section unless it has applied to be designated an
21 exempt business by July 1, 2002 2003.

22 Sec. 3. Section 427B.17, subsection 5, unnumbered
23 paragraph 2, Code 2003, is amended to read as follows:

24 Any electric power generating plant which operated during
25 the preceding assessment year at a net capacity factor of more
26 than twenty percent, shall not receive the benefits of this
27 section or of ~~sections~~ section 15.332 and ~~15.334~~. For
28 purposes of this section, "electric power generating plant"
29 means any nameplate rated electric power generating plant, in
30 which electric energy is produced from other forms of energy,
31 including all taxable land, buildings, and equipment used in
32 the production of such energy. "Net capacity factor" means
33 net actual generation divided by the product of net maximum
34 capacity times the number of hours the unit was in the active
35 state during the assessment year. Upon commissioning, a unit

1 is in the active state until it is decommissioned. "Net
2 actual generation" means net electrical megawatt hours
3 produced by the unit during the preceding assessment year.
4 "Net maximum capacity" means the capacity the unit can sustain
5 over a specified period when not restricted by ambient
6 conditions or equipment deratings, minus the losses associated
7 with station service or auxiliary loads.

8 Sec. 4. Sections 15.334 and 15.334A, Code 2003, are
9 repealed.

10 Sec. 5. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.
11 Section 2 of this bill, amending Code section 15.331B, being
12 deemed of immediate importance, takes effect upon enactment
13 and applies retroactively to July 1, 2002.

14 EXPLANATION

15 This bill makes statutory changes to the new jobs and
16 income program administered by the department of economic
17 development.

18 The bill adds a requirement to be included in new jobs and
19 income program agreements. The bill provides that agreements
20 shall include a provision that if a business or group of
21 businesses is approved to receive or actually receives
22 incentives under the program and the business or group of
23 businesses experiences a layoff within the state or closes any
24 of its facilities within the state, the department may reduce
25 or eliminate incentives that have not yet been received or may
26 require repayment of some or all of the incentives received.

27 The bill extends the sunset of the application date from
28 July 1, 2002, to July 1, 2003, for the exemption from land
29 ownership restrictions for nonresident aliens. This provision
30 takes effect upon enactment and applies retroactively to July
31 1, 2002.

32 The bill repeals two provisions in the new jobs and income
33 program relating to a property tax exemption and a sales and
34 use tax exemption for machinery, equipment, and computers.

35 The bill makes conforming amendments to the repeals.

TO: Members of the General Assembly

FROM: Mary Lawyer, Interim Director
Iowa Department of Economic Development

Date: January 5, 2003

RE: New Jobs and Income Program (NJIP) Changes

The attached bill requests three changes to the New Jobs and Income Program (NJIP).

First, the bill adds a new code section that provides the Department with some recourse when a business approved for tax incentives and assistance experiences a layoff or closes a facility within Iowa. The language allows the Department discretion when determining if or what action should be taken in these situations.

Second, the bill extends the sunset date on the agricultural land ownership exemption available to foreign-owned businesses that participate in NJIP.

Finally, the bill repeals two code sections, which are no longer applicable. These code sections provided property tax and sales tax exemptions on machinery, equipment, and computers. These exemptions are now, part of the general tax code and already applicable to all Iowa businesses, regardless of participation in NJIP.