

APR 11 2003

WAYS & MEANS CALENDAR

HOUSE FILE **679**

BY COMMITTEE WAYS AND MEANS

Referred 4/23 To Senate Ways + Means

(SUCCESSOR TO HF 399)

(SUCCESSOR TO HSB 58)

Passed House, Date 4/23/03 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:

4

5

HOUSE FILE 679

6

H-1341

7

1 Amend House File 679 as follows:

8

2 1. Page 5, by inserting after line 13 the
3 following:

9

4 "Sec. ____ . EFFECTIVE DATE PROVISION. Section 2 of
5 this Act takes effect on the date the general assembly
6 notifies the department of revenue and finance of a
7 reduction in or the elimination of a specific service
8 or program funded by an appropriation from the general
9 fund of the state that will at least offset the
10 estimated future revenue loss to the general fund of
11 the state as a result of the implementation of the
12 franchise tax credits in section 2 of this Act."

13

13 2. Title page, line 2, by inserting after the
14 word "credit" the following: "and including an
15 effective date".

17

By JOCHUM of Dubuque

18

H-1341 FILED APRIL 15, 2003

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Withdrawn 4/23/03

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21

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HF679

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.~~ 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. 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.

21
22 **HOUSE FILE 679**

23 **H-1378**

24 1 Amend House File 679 as follows:

25 2 1. Page 5, by inserting after line 13 the
26 3 following:

27 4 "Sec. ____ . EFFECTIVE AND RETROACTIVE APPLICABILITY
28 5 DATES. Sections 2 and 3 of this Act, relating to the
29 6 franchise tax credit, being deemed of immediate
30 7 importance, take effect May 1, 2003, and, if approved
31 8 by the governor after May 1, 2003, shall apply
32 9 retroactively to May 1, 2003."

33 10 2. Title page, line 1, by striking the words
34 11 "program and" and inserting the following:
35 12 "program,".

13 3. Title page, line 2, by inserting after the
14 word "credit" the following: ", and providing
15 effective and retroactive applicability dates".

16 4. By renumbering as necessary.

By LUKAN of Dubuque

H-1378 FILED APRIL 21, 2003

Adopted 4/23/03

HOUSE FILE 679

H-1439

1 Amend House File 679 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. NEW SECTION. 15.115 ACCOUNTABILITY.

5 1. If the department of economic development
6 determines that a recipient of financial assistance in
7 the form of a tax credit under a program administered
8 by the department of economic development has not met
9 performance measures and benchmarks developed by the
10 department, the department of economic development
11 shall notify the department of revenue and finance.
12 Upon notification, the department of revenue and
13 finance shall initiate an investigation of the failure
14 of the recipient to achieve the performance measures
15 and benchmarks. If the department of revenue and
16 finance determines that the performance and benchmarks
17 were not met by the recipient, the department of
18 revenue and finance shall initiate proceedings to
19 recover state taxes received by the recipient.

20 2. Any state taxes recovered by the department of
21 revenue and finance shall be deposited in the state
22 tax recovery fund. The state tax recovery fund is
23 created in the state treasury under the control of the
24 department of revenue and finance. Moneys in the fund
25 are appropriated to the department of revenue and
26 finance for purposes of initiating investigations and
27 recovery proceedings under this section. On June 30
28 of each fiscal year, any unobligated moneys remaining
29 in the fund shall be deposited in a fund enacted by
30 the general assembly during the 2003 legislative
31 session and funded with bond sale proceeds totaling
32 more than five hundred million dollars."

33 2. Title page, line 1, by inserting after the
34 word "program" the following: ", economic development
35 accountability and funding,".

36 3. By renumbering as necessary.

By SHOULTZ of Black Hawk

H-1439 FILED APRIL 23, 2003

LOST

HOUSE FILE 679

H-1403

1 Amend House File 679 as follows:

2 1. Page 4, by inserting after line 20 the
3 following:

4 "Sec. ____ . NEW SECTION. 15A.10 JOB RETENTION
5 AGREEMENTS.

6 1. In order to encourage the retention of existing
7 jobs and income that would otherwise be lost, and to
8 encourage large employers to remain in the state, an
9 agreement under section 260E.3 may include a provision
10 to provide training or retraining to existing
11 employees. Such an agreement shall provide for the
12 following:

13 a. That the employer must be a person that
14 currently employs at one place of business at least
15 one thousand workers.

16 b. That the employer shall make an investment of
17 at least ten million dollars to retool the workplace
18 and shall make a commitment that the employer shall
19 not move the business operation out of this state or
20 close the business operation until any certificates
21 issued pursuant to section 260E.6 are repaid.

22 c. That the project shall be administered in the
23 same manner as a project under chapter 260E, and may
24 include supplemental new jobs credit from withholding
25 in the same manner as a project under section 15A.7.

26 d. That the new jobs credit from withholding and
27 the supplemental new jobs credit from withholding
28 shall be collected, accounted for, and may be pledged
29 by the community college in the same manner as
30 described in section 260E.5.

31 e. To provide funds for the payment of the costs
32 of the project, a community college may borrow money,
33 issue and sell certificates, and secure the payment of
34 the certificates in the same manner as described in
35 section 260E.6, including, but not limited to,
36 providing the assessment of an annual levy as
37 described in section 260E.6, subsection 4. The
38 program and credits authorized by this section are in
39 addition to, and not in lieu of, the program and
40 credit authorized in chapter 260E.

41 2. A job retention agreement entered into pursuant
42 to this section must be approved by the board of
43 trustees for the applicable community college. The
44 department of economic development shall review the
45 approval by the community college and must also
46 approve the agreement.

47 3. This section is repealed June 30, 2008."

48 2. Title page, by striking lines 1 and 2 and
49 inserting the following: "An Act relating to economic
50 development by modifying the new jobs and income

H-1403

H-1403

Page 2

1 program, providing for job retention agreements, and
2 providing a tax credit."

3 3. By renumbering as necessary.

By EICHHORN of Hamilton

MILLER of Webster

H-1403 FILED APRIL 22, 2003

Withdrawn 4/23/03

HOUSE FILE 679

H-1442

1 Amend House File 679 as follows:

2 1. Page 4, by inserting after line 20 the
3 following:

4 "Sec. ____ . Section 15E.193B, subsection 4, Code
5 2003, is amended to read as follows:

6 4. The eligible housing business shall complete
7 its building or rehabilitation within two years from
8 the time the business begins construction on the
9 single-family homes and dwelling units. The failure
10 to complete construction or rehabilitation within two
11 years shall result in the eligible housing business
12 becoming ineligible and subject to the repayment
13 requirements and penalties enumerated in subsection 7.
14 The department may extend the prescribed two-year
15 completion period if the department determines that
16 completion within the two-year period is impossible or
17 impractical as a result of a substantial loss caused
18 by flood, fire, earthquake, storm, or other
19 catastrophe. For purposes of this subsection,
20 "substantial loss" means damage or destruction in an
21 amount in excess of thirty percent of the project's
22 expected eligible basis as set forth in the eligible
23 housing business's application."

24 2. Title page, by striking line 1 and inserting
25 the following: "An Act relating to economic
26 development by modifying the new jobs and income
27 program and the enterprise zone program and
28 providing".

29 3. By renumbering as necessary.

By HUSER of Polk

H-1442 FILED APRIL 23, 2003

ADOPTED

HF 679 - New Jobs & Income Program (NJIP) (LSB 1263 HZ.1)

Analyst: Russell Trimble (Phone: (515) 281-4613) (russ.trimble@legis.state.ia.us)

Fiscal Note Version — As Amended and Passed by the Senate

Description

House File 679, as amended and passed by the Senate, allows the Department of Economic Development to reduce or eliminate incentives for a business or group of businesses under the New Jobs and Income Program prior to the awarding of such incentives if the business or group of businesses experiences a layoff or closes a facility within the State. If the business or group of businesses receives incentives and later experiences a layoff or closes a facility within the State, the business or group of businesses may be subject to repayment of part or all of the incentives received. Under current law, a business participating in the New Jobs and Income Program may receive a tax credit of up to 10.0% of the new investment directly related to new jobs created by the location or expansion of an eligible business. Currently, the tax credit may be used to offset corporate income tax, insurance premium tax, and personal income tax liability assuming an individual is a partner, shareholder, member, in a limited partnership, limited liability corporation, (LLC), S-corporation, cooperative, which has been awarded investment tax credits. House File 679, as amended and passed by the Senate, allows a business to use the tax credit to offset franchise tax liability. The Bill, as amended and passed by the Senate, also allows the Department of Economic Development to provide assistance and incentives offered under the enterprise zone program to a business with 1,000 or more employees at one place of business, that is outside of an enterprise zone, that invests a minimum of \$15.0 million to retool or upgrade its facilities in order to assure the retention of existing jobs that would otherwise be lost.

Assumptions

1. Currently, there are approximately eight new projects on average per year under the New Jobs and Income Program.
 2. These projects under the New Jobs and Income Program on average utilize a total of approximately \$5.0 million in tax credits or refunds annually.
 3. The average tax credit utilization per project per year is approximately \$625,000 under the current Program.
 4. The Department of Economic Development estimates an increase of one project in FY 2004 as a result of the proposed legislation, and an increase of one project every other year after FY 2004. The impact would therefore occur starting in FY 2005. In considering awards to projects, the Department of Economic Development must consider the effects the award would have on competing businesses so no one business has an unfair advantage over its competition. Additional projects would likely result from a company locating or expanding its headquarters in Iowa and/or large processing facilities locating or expanding operations in the State.
 5. An eligible business must utilize the tax credit awarded against not more than one of its tax liabilities. The additional project as a result of HF 679, as amended and passed by the Senate, would not be able to utilize the tax credit or participate in the Program but for the inclusion of the franchise tax credit as specified in the Bill as amended and passed by the Senate.
 6. There are approximately 27 Iowa companies that are located outside of enterprise zones that employ 1,000 or more employees at one place of business. According to the Department, one of the 27 companies would likely apply and be eligible for assistance upon enactment of this legislation. The company would be able to utilize the tax credits beginning in FY 2005.
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7. This company will invest approximately \$78.0 million and will receive an investment tax credit of \$7.8 million to be utilized over a seven-year period. The ability of the company to utilize the tax credit depends on the company's tax liability. Although the tax liability of the company is unknown, it is assumed the company would utilize at least 50.0% of the tax credits awarded over the seven-year period. Assuming the tax credits would be utilized equally over seven years, General Fund revenues will be reduced by approximately \$557,000 each year for seven years starting in FY 2005.
8. Additional companies may be eligible and may apply to receive assistance. The number of companies that may apply and be eligible to receive assistance is unknown. However, each additional eligible company that receives assistance will be awarded a minimum tax credit of \$1.5 million to be utilized over a seven-year period. The ability of the company to utilize the tax credit depends on the company's tax liability. Assuming the company would utilize at least 50.0% of the tax credits awarded and that the tax credits would be utilized equally over seven years, General Fund revenues would be reduced by a minimum of \$107,000 per year for each eligible company.
9. The estimate does not include any sales tax refunds or research and development tax credits that a company with 1,000 or more employees may be eligible to receive. It is assumed that this type of assistance will add minimal fiscal impact in comparison to the impact that results from the investment tax credit awarded and utilized.

Fiscal Impact

House File 679, as amended and passed by the Senate, would reduce General Fund revenues by approximately \$557,000 annually starting in FY 2005 due to investment tax credits awarded to an Iowa company outside of an enterprise zone that employs at least 1,000 employees. The number of other companies that may be eligible to receive assistance under this provision is unknown. However, for each eligible business that receives assistance, General Fund revenues will be reduced a minimum of an additional \$107,000 per project per year starting in FY 2005.

The Bill, as amended and passed by the Senate, would also reduce General Fund Revenues by \$625,000 every other year starting in FY 2005 due to tax credits or refunds awarded under the New Jobs and Income Program (NJIP).

The total estimated reduction in General Fund revenues for FY 2005 will be \$1.2 million.

Source

Iowa Department of Economic Development
Iowa Department of Revenue and Finance

/s/ Dennis C Prouty

May 1, 2003

HF 679 - New Jobs & Income Program (NJIP) (LSB 1263 HZ)

Analyst: Russell Trimble (Phone: (515) 281-4613) (russ.trimble@legis.state.ia.us)

Fiscal Note Version — New

Description

House File 679 allows the Department of Economic Development to reduce or eliminate incentives for a business or group of businesses under the New Jobs and Income Program prior to the awarding of such incentives if the business or group of businesses experiences a layoff or closes a facility within the State. If the business or group of businesses receives incentives and later experiences a layoff or closes a facility within the State, the business or group of businesses may be subject to repayment of part or all of the incentives received. Under current law, a business participating in the New Jobs and Income Program may receive a tax credit of up to 10.0% of the new investment directly related to new jobs created by the location or expansion of an eligible business. Currently, the tax credit may be used to offset corporate income tax, insurance premium tax, and personal income tax liability assuming an individual is a partner, shareholder, member, in a limited partnership, limited liability corporation, (LLC), S-corporation, cooperative, which has been awarded investment tax credits. House File 679 allows a business to use the tax credit to offset franchise tax liability.

Assumptions

1. There are approximately eight projects on average per year under the New Jobs and Income Program.
2. Projects under the New Jobs and Income Program utilize a total of approximately \$5.0 million in tax credits or refunds annually.
3. The average tax credit utilization per project per year is approximately \$625,000.
4. The Department of Economic Development estimates an increase of one project in FY 2004 as a result of the purposed legislation, and an increase of one project every other year after FY 2004. The impact would therefore occur starting in FY 2005. In considering making awards to projects, the Department of Economic Development must consider the effects the award would have on competing businesses so no one business has an unfair advantage over its competition. Additional projects would likely result from a company locating or expanding its headquarters in Iowa and/or large processing facilities locating or expanding operations in the State.
5. An eligible business must utilize the tax credit awarded against not more than one of its tax liabilities. The additional project as a result of HF 679 would not be able to utilize the tax credit or participate in the Program but for the inclusion of the franchise tax credit as specified in the Bill.

Fiscal Impact

House File 679 would reduce General Fund revenues by approximately \$625,000 starting in FY 2005. This reduction in General Fund revenues will occur every other year starting in FY 2005.

Source

Iowa Department of Economic Development

/s/ Dennis C Prouty

April 15, 2003

HOUSE FILE 679
BY COMMITTEE WAYS AND MEANS

(SUCCESSOR TO HF 399)

(SUCCESSOR TO HSB 58)

(As Amended and Passed by the House April 23, 2003)

Passed House, Date 4/23/03 Passed Senate, Date 4/30/03
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to economic development by modifying the new jobs
2 and income program and the enterprise zone program and
3 providing a tax credit, and providing effective and
4 retroactive applicability dates.

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

6

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House Amendments _____

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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 15.334, 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. 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 15E.193B, subsection 4, Code 2003, is
22 amended to read as follows:

23 4. The eligible housing business shall complete its
24 building or rehabilitation within two years from the time the
25 business begins construction on the single-family homes and
26 dwelling units. The failure to complete construction or
27 rehabilitation within two years shall result in the eligible
28 housing business becoming ineligible and subject to the
29 repayment requirements and penalties enumerated in subsection

30 7. The department may extend the prescribed two-year
31 completion period if the department determines that completion
32 within the two-year period is impossible or impractical as a
33 result of a substantial loss caused by flood, fire,
34 earthquake, storm, or other catastrophe. For purposes of this
35 subsection, "substantial loss" means damage or destruction in

1 an amount in excess of thirty percent of the project's
2 expected eligible basis as set forth in the eligible housing
3 business's application.

4 Sec. 4. Section 422.60, Code 2003, is amended by adding
5 the following new subsection:

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

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

11 Any electric power generating plant which operated during
12 the preceding assessment year at a net capacity factor of more
13 than twenty percent, shall not receive the benefits of this
14 section or of ~~sections~~ section 15.332 ~~and 15.334~~. For
15 purposes of this section, "electric power generating plant"
16 means any nameplate rated electric power generating plant, in
17 which electric energy is produced from other forms of energy,
18 including all taxable land, buildings, and equipment used in
19 the production of such energy. "Net capacity factor" means
20 net actual generation divided by the product of net maximum
21 capacity times the number of hours the unit was in the active
22 state during the assessment year. Upon commissioning, a unit
23 is in the active state until it is decommissioned. "Net
24 actual generation" means net electrical megawatt hours
25 produced by the unit during the preceding assessment year.
26 "Net maximum capacity" means the capacity the unit can sustain
27 over a specified period when not restricted by ambient
28 conditions or equipment deratings, minus the losses associated
29 with station service or auxiliary loads.

30 Sec. 6. Sections 15.334 and 15.334A, Code 2003, are
31 repealed.

32 Sec. 7. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

33 Sections 2 and 4 of this Act, relating to the franchise tax
34 credit, being deemed of immediate importance, take effect May
35 1, 2003, and, if approved by the governor after May 1, 2003,

1 shall apply retroactively to May 1, 2003.

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HOUSE FILE 679

S-3344

1 Amend House File 679, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 4, line 31, by inserting after the word
4 "period" the following: "for any current or future
5 project which has not been completed".

By COMMITTEE ON WAYS AND MEANS
LARRY McKIBBEN, Chairperson

S-3344 FILED APRIL 30, 2003
ADOPTED

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HOUSE FILE 679

S-3348

1 Amend House File 679, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 5, by inserting after line 3 the
4 following:
5 "Sec. ____ . Section 15E.194, Code 2003, is amended
6 by adding the following new subsection:
7 NEW SUBSECTION. 5. In order to assure the
8 retention of existing jobs that would otherwise be
9 lost in connection with an employer currently
10 employing at one place of business at least one
11 thousand employees, the department of economic
12 development may, upon a finding that the employer has
13 made a commitment to invest at least fifteen million
14 dollars to retool or upgrade its facilities, authorize
15 incentives and assistance under section 15E.196 in an
16 amount equal to and on the same basis as if the
17 employer were an eligible business in an enterprise
18 zone."
19 2. By renumbering as necessary.

By JEFF ANGELO
DARYL BEALL
STEWART IVERSON, Jr.

S-3348 FILED APRIL 30, 2003
ADOPTED

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SENATE AMENDMENT TO
HOUSE FILE 679

H-1568

1 Amend House File 679, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 4, line 31, by inserting after the word
4 "period" the following: "for any current or future
5 project which has not been completed".

6 2. Page 5, by inserting after line 3 the
7 following:

8 "Sec. ____ . Section 15E.194, Code 2003, is amended
9 by adding the following new subsection:

10 NEW SUBSECTION. 5. In order to assure the
11 retention of existing jobs that would otherwise be
12 lost in connection with an employer currently
13 employing at one place of business at least one
14 thousand employees, the department of economic
15 development may, upon a finding that the employer has
16 made a commitment to invest at least fifteen million
17 dollars to retool or upgrade its facilities, authorize
18 incentives and assistance under section 15E.196 in an
19 amount equal to and on the same basis as if the
20 employer were an eligible business in an enterprise
21 zone."

22 3. By renumbering, relettering, or redesignating
23 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-1568 FILED APRIL 30, 2003

Smith, Chr.
Lukan
Wilderdyke

Succeeded D.

SF 399
679

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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S.F. _____ H.F. _____

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 15.334, 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.