

Senate File 228 - Introduced

SENATE FILE 228

BY LOFGREN

A BILL FOR

1 An Act relating to economic development by providing an
2 adjustment to net income for certified suppliers of anchor
3 manufacturers for purposes of state taxation and including
4 retroactive applicability provisions.

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

1 Section 1. Section 2.48, subsection 3, Code 2017, is amended
2 by adding the following new paragraph:

3 NEW PARAGRAPH. *Oh.* In 2019, the economic development
4 program for certified suppliers of anchor manufacturers
5 available under sections 15.226 through 15.229 and the related
6 adjustments to net income provided in section 422.7, subsection
7 59, and section 422.35, subsection 26.

8 Sec. 2. NEW SECTION. **15.226 Definitions.**

9 For purposes of this part:

10 1. "*Anchor manufacturer*" means a business that meets all of
11 the following:

12 a. Manufactures tangible personal property at a facility in
13 Iowa.

14 b. Exports at least fifty percent of the tangible personal
15 property manufactured at the facility to markets outside of the
16 state.

17 2. "*Certified supplier*" means a business certified pursuant
18 to section 15.227.

19 3. "*Facility*" means a building or buildings located in the
20 state at which tangible personal property is manufactured for
21 sale within or without the state of Iowa.

22 4. "*Manufactured*" or "*Manufactures*" means adding value to
23 personal property through a process of manufacturing, refining,
24 purifying, combining of different materials, the packaging of
25 meats, extracting and recovering natural resources, and all
26 processes of fabricating and curing, with a view to selling the
27 property for gain or profit.

28 5. "*Tangible personal property*" means the same as defined in
29 section 422.33, subsection 2, paragraph "b", subparagraph (3).

30 Sec. 3. NEW SECTION. **15.227 Certification of suppliers.**

31 1. A business meeting the requirements of subsection 2 may
32 apply to the authority, no later than ninety days after the
33 end of a tax year of the business, for certification under
34 this section. If a business applying to the authority meets
35 the requirements of subsection 2, the authority shall issue

1 a certificate to the business stating that the business is a
2 certified supplier.

3 2. To receive certification as a certified supplier, a
4 business must meet all of the following for the tax year
5 immediately preceding the tax year for which the requested
6 certificate will be valid:

7 a. The business manufactures tangible personal property at a
8 facility in Iowa.

9 b. The business derives more than ten percent of its gross
10 sales of tangible personal property manufactured at a facility
11 in Iowa from sales to anchor manufacturers. For purposes of
12 the requirement in this paragraph, a business may aggregate
13 gross sales to more than one anchor manufacturer.

14 c. All sales by the business to anchor manufacturers are
15 arm's length transactions.

16 d. The business provides all of the following:

17 (1) A statement or statements from one or more
18 anchor manufacturers, signed by an officer or authorized
19 representative of the anchor manufacturer, attesting that the
20 anchor manufacturer meets the definition of anchor manufacturer
21 under section 15.226. The business shall provide statements
22 from as many anchor manufacturers to which the business makes
23 sales as collectively represents more than ten percent of
24 the business's gross sales of tangible personal property
25 manufactured at a facility in Iowa.

26 (2) Supporting documentation in a form prescribed by the
27 authority.

28 e. The business meets one of the following criteria:

29 (1) At least ten percent of the total payroll of the
30 business is located in the state.

31 (2) The business employs at least fifty employees at a
32 facility in the state.

33 f. The business agrees to annually provide to the authority
34 information and data on jobs created and capital investments
35 made in the state by the business. The information and data

1 shall be in a form prescribed by the authority.

2 *g.* The business is not an anchor manufacturer.

3 3. A certificate is valid for one tax year and shall include
4 an expiration date. Reapplication may be made each year for
5 certification under this part. The department of revenue shall
6 accept a validly issued, unexpired certificate issued under
7 this section.

8 4. The authority shall not issue certificates pursuant to
9 this section for tax years beginning on or after January 1,
10 2020.

11 **Sec. 4. NEW SECTION. 15.228 Eligibility for adjustment to**
12 **net income of certified suppliers.**

13 1. A certified supplier shall be eligible to make the
14 adjustment to net income in section 422.35, subsection 26, for
15 a tax year if all the following apply:

16 *a.* The certified supplier's net business income for the tax
17 year, allocated and apportioned to this state under section
18 422.33, subsection 2, paragraph "a", subparagraph (2), computed
19 without regard to section 422.35, subsection 26, increased
20 by more than five percent over the certified supplier's net
21 business income in the prior year, allocated and apportioned to
22 this state under section 422.33, subsection 2, paragraph "a",
23 subparagraph (2).

24 *b.* The certified supplier includes a copy of a valid,
25 unexpired certificate issued under section 15.227 with the
26 certified supplier's tax return required under chapter 422.

27 2. A taxpayer who is a shareholder in a subchapter S
28 corporation that is a certified supplier shall be eligible to
29 make the adjustment to net income in section 422.7, subsection
30 59, for a tax year if all the following apply:

31 *a.* The certified supplier's net business income for the tax
32 year, allocated and apportioned to this state under section
33 422.33, subsection 2, paragraph "a", subparagraph (2), computed
34 without regard to section 422.35, subsection 26, increased
35 by more than five percent over the certified supplier's net

1 business income in the prior year, allocated and apportioned
2 to this state under section 422.33, subsection 2, paragraph
3 "a", subparagraph (2), which prior year's allocation and
4 apportionment shall be computed with regard to section 422.35,
5 subsection 26, if the subchapter S corporation was a certified
6 supplier in the previous tax year and met the eligibility
7 requirements in this paragraph "a".

8 **b.** The shareholder includes a copy of a valid, unexpired
9 certificate issued under section 15.227 with the shareholder's
10 tax return required under chapter 422.

11 **3.** For purposes of establishing eligibility under this
12 section, "*net business income*" shall not include any income of
13 a certified supplier that is attributable to an existing trade
14 or business or income-producing contract that was acquired by
15 the certified supplier through merger or acquisition during or
16 after the first year for which the certified supplier becomes
17 eligible pursuant to this section for the adjustments to net
18 income in section 422.7, subsection 59, or section 422.35,
19 subsection 26.

20 **Sec. 5. NEW SECTION. 15.229 Rules.**

21 The authority and the department of revenue may adopt rules
22 pursuant to chapter 17A to administer this part.

23 **Sec. 6.** Section 257.21, subsection 2, Code 2017, is amended
24 to read as follows:

25 **2.** The instructional support income surtax shall be imposed
26 on the state individual income tax for the calendar year during
27 which the school's budget year begins, or for a taxpayer's
28 fiscal year ending during the second half of that calendar year
29 and after the date the board adopts a resolution to participate
30 in the program or the first half of the succeeding calendar
31 year, and shall be imposed on all individuals residing in the
32 school district on the last day of the applicable tax year.

33 As used in [this section](#), "*state individual income tax*" means
34 the taxes computed under [section 422.5](#), without regard to the
35 adjustment to net income in section 422.7, subsection 59, less

1 the amounts of nonrefundable credits allowed under chapter
2 422, division II, except for the Iowa taxpayers trust fund tax
3 credit allowed under [section 422.11E](#).

4 Sec. 7. Section 422.7, Code 2017, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 59. *a.* If the adjusted gross income
7 includes income from a subchapter S corporation for which the
8 taxpayer is a shareholder, which subchapter S corporation is
9 a certified supplier that meets the requirements in section
10 15.228, subsection 2, paragraph "a", the taxpayer may subtract
11 an amount based on the taxpayer's pro rata share of the
12 profits or losses from the subchapter S corporation equal to
13 the difference between the subchapter S corporation's net
14 business income for the tax year, allocated and apportioned to
15 this state under section 422.33, subsection 2, paragraph "a",
16 subparagraph (2), computed without regard to section 422.35,
17 subsection 26, and one hundred five percent of the subchapter
18 S corporation's net business income for the prior tax year,
19 allocated and apportioned under section 422.33, subsection 2,
20 paragraph "a", subparagraph (2), which prior year's allocation
21 and apportionment shall be computed with regard to section
22 422.35, subsection 26, if the subchapter S corporation was
23 a certified supplier in the previous tax year and met the
24 requirements in section 15.228, subsection 2, paragraph "a".
25 A taxpayer who is a resident shall not make the subtraction
26 provided in this subsection unless the taxpayer also makes an
27 election pursuant to section 422.5, subsection 1, paragraph
28 "j", subparagraph (2).

29 *b.* For purposes of the adjustment provided in this
30 subsection, "net business income" shall not include any
31 income of a certified supplier that is attributable to an
32 existing trade or business or income-producing contract that
33 was acquired by the certified supplier through merger or
34 acquisition during or after the first year for which the
35 certified supplier becomes eligible for the adjustment in this

1 subsection.

2 Sec. 8. Section 422.35, Code 2017, is amended by adding the
3 following new subsection:

4 NEW SUBSECTION. 26. *a.* If the taxpayer is a certified
5 supplier that meets the requirements in section 15.228,
6 subsection 1, subtract an amount equal to the difference
7 between the taxpayer's net business income for the tax year,
8 allocated and apportioned under section 422.33, subsection 2,
9 paragraph "a", subparagraph (2), computed without regard to
10 this subsection, and one hundred five percent of the taxpayer's
11 net business income for the prior tax year, allocated and
12 apportioned under section 422.33, subsection 2, paragraph "a",
13 subparagraph (2).

14 *b.* For purposes of the adjustment provided in this
15 subsection, "*net business income*" shall not include any
16 income of a certified supplier that is attributable to an
17 existing trade or business or income-producing contract
18 which was acquired by the certified supplier through merger
19 or acquisition during or after the first year for which the
20 certified supplier becomes eligible for the adjustment in this
21 subsection.

22 Sec. 9. Section 422D.2, Code 2017, is amended to read as
23 follows:

24 **422D.2 Local income surtax.**

25 A county may impose by ordinance a local income surtax as
26 provided in [section 422D.1](#) at the rate set by the board of
27 supervisors, of up to one percent, on the state individual
28 income tax of each individual residing in the county at the
29 end of the individual's applicable tax year. However, the
30 cumulative total of the percents of income surtax imposed on
31 any taxpayer in the county shall not exceed twenty percent.
32 The reason for imposing the surtax and the amount needed
33 shall be set out in the ordinance. The surtax rate shall be
34 set to raise only the amount needed. For purposes of this
35 section, "*state individual income tax*" means the tax computed

1 under section 422.5, without regard to the adjustment to net
2 income in section 422.7, subsection 59, less the amounts of
3 nonrefundable credits allowed under chapter 422, division II,
4 except for the Iowa taxpayers trust fund tax credit allowed
5 under section 422.11E.

6 Sec. 10. RETROACTIVE APPLICABILITY. This Act applies
7 retroactively to January 1, 2017, for tax years beginning on
8 or after that date.

9 EXPLANATION

10 The inclusion of this explanation does not constitute agreement with
11 the explanation's substance by the members of the general assembly.

12 This bill creates an economic development program that
13 allows a certified supplier to make an adjustment to net income
14 for state individual and corporate income tax purposes. The
15 adjustment is available for corporations and shareholders of
16 subchapter S corporations.

17 To qualify as a certified supplier under the bill, a business
18 must meet several requirements. The business must manufacture
19 tangible personal property in Iowa but cannot be an anchor
20 manufacturer. The business must derive more than 10 percent
21 of its gross sales from sales to anchor manufacturers, and all
22 such sales must be arm's length transactions. The business
23 must supply the authority with signed statements from a certain
24 number of anchor manufacturers attesting to certain information
25 as prescribed in the bill and must agree to annually provide
26 to the authority information and data on jobs and capital
27 investments made in the state by the business. Finally, the
28 business must maintain at least 10 percent of its payroll in
29 Iowa or employ at least 50 employees in Iowa.

30 "Anchor manufacturer" is defined as a business that
31 manufactures tangible personal property in Iowa and exports at
32 least 50 percent of the tangible personal property manufactured
33 in Iowa outside of the state.

34 A business that meets all of the qualifications of a
35 certified supplier may annually apply to the authority to

1 receive a certificate labeling the business as a certified
2 supplier. A business must apply for a certificate no later
3 than 90 days after the end of its tax year. The certificate is
4 valid for one year and shall include an expiration date.

5 The certified supplier will be entitled to make an
6 adjustment to its net income if it includes the valid,
7 unexpired certificate with its tax return, and if its net
8 business income allocated and apportioned to this state,
9 computed without regard to the adjustment to net income
10 provided in the bill, increased by more than 5 percent over
11 its prior year net business income allocated and apportioned
12 to this state.

13 If both requirements are met, the certified supplier is
14 entitled to subtract from its net income an amount equal to
15 the difference between its current year net business income
16 allocated and apportioned to this state, computed without
17 regard to the adjustment to net income provided in the bill,
18 and 105 percent of its prior year net business income allocated
19 and apportioned to this state. This net income adjustment
20 does not take into account any income attributable to an
21 existing trade or business or income-producing contract
22 which was acquired by the certified supplier through merger
23 or acquisition during or after the first year for which
24 the certified supplier became eligible for the net income
25 adjustment. Finally, the bill excludes this net income
26 adjustment from the calculation of the school district income
27 surtaxes in Code sections 257.21 (instructional support
28 program), 257.29 (educational improvement program), and 298.2
29 (physical plant and equipment levy), and the emergency medical
30 services income surtax in Code chapter 422D, so that revenues
31 from those taxes will not be reduced as a result of the net
32 income adjustment.

33 The economic development authority shall not issue
34 certificates for tax years beginning on or after January 1,
35 2020. The bill includes the certification program and its

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1 related income tax adjustments on the list of tax expenditures
2 that the legislative tax expenditure committee is required to
3 review during 2019.

4 The bill provides the authority and department of revenue
5 with rulemaking authority.

6 The bill applies retroactively to January 1, 2017, for tax
7 years beginning on or after that date.