

**House File 478 - Reprinted**

HOUSE FILE 478

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 3)

(As Amended and Passed by the House March 13, 2013)

**A BILL FOR**

1 An Act relating to revenue and taxation by modifying the  
2 transfer of moneys from the Iowa economic emergency fund to  
3 the taxpayers trust fund, creating an Iowa taxpayers trust  
4 fund tax credit and fund and providing for the transfer of  
5 moneys for purposes of the credit, creating an alternative  
6 base income tax and an alternative cumulative income surtax  
7 imposed at the election of the taxpayer and including  
8 effective date and retroactive applicability provisions.  
9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

ALTERNATIVE BASE INCOME TAX AND  
ALTERNATIVE CUMULATIVE INCOME SURTAX

Section 1. NEW SECTION. 422.5A Tax imposed — alternative  
base income tax.

1. For purposes of this section, "*base income*" means the adjusted gross income before the net operating loss deduction as properly computed for federal income tax purposes under the Internal Revenue Code, with the following adjustments:

a. Subtract a standard deduction equal to six thousand two hundred thirty-five dollars for a married person who files separately or a single person or equal to twelve thousand four hundred seventy dollars for a married couple who files a joint return, a surviving spouse, or a head of household.

b. Subtract interest and dividends from federal securities.

2. Notwithstanding any other provision of law, a resident or nonresident may, in lieu of the taxes imposed under section 422.5, elect to be subject to state income tax as imposed and computed pursuant to subsection 3. Such election must be made not later than the due date for filing the return for a taxable year, including extensions thereof, and under rules to be prescribed by the director.

3. A tax is imposed upon every resident and nonresident of the state making the election under subsection 2 which tax shall be levied, collected, and paid annually in an amount equal to the base income of the resident or nonresident times four and one-half percent.

4. Notwithstanding any other provision of law, a resident or nonresident making the election under subsection 2 shall not be allowed any nonrefundable or refundable credit otherwise allowed under this division for the tax year for which the election is made, except for the credits for withheld tax and estimated tax paid under section 422.16.

5. A taxpayer making the election under subsection 2 shall be subject to an alternative cumulative income surtax as

1 provided in section 298.14.

2 Sec. 2. Section 298.14, Code 2013, is amended to read as  
3 follows:

4 **298.14 School district income surtaxes.**

5 1. a. For each fiscal year, the cumulative total of the  
6 percents of surtax approved by the board of directors of a  
7 school district and collected by the department of revenue  
8 under sections 257.21, 257.29, and 298.2, and the enrichment  
9 surtax under section 442.15, Code 1989, and an income surtax  
10 collected by a political subdivision under chapter 422D, shall  
11 not exceed twenty percent.

12 b. Notwithstanding paragraph "a", or any other provision  
13 of law to the contrary, for a taxpayer who makes an election  
14 under section 422.5A, subsection 2, and who is subject to an  
15 income surtax as provided in section 257.21, 257.29, 298.2,  
16 442.15, Code 1989, or chapter 422D, the appropriate governing  
17 body shall impose, and the department of revenue shall collect,  
18 an alternative cumulative income surtax from the taxpayer in an  
19 amount equal to one hundred twenty-two percent of the amount  
20 generated by each surtax imposed by the school district or  
21 political subdivision for the tax year in which the election  
22 is made.

23 2. A school district income surtax fund is created in the  
24 office of treasurer of state. Income surtaxes collected by  
25 the department of revenue under sections 257.21, 257.29, and  
26 298.2 and section 442.15, Code 1989, shall be deposited in the  
27 school district income surtax fund to the credit of each school  
28 district. A separate accounting of each surtax, by school  
29 district, shall be maintained.

30 3. The director of the department of administrative  
31 services shall draw warrants in payment of the surtaxes  
32 collected in each school district. Warrants shall be payable  
33 in two installments to be paid on approximately the first day  
34 of December and the first day of February following collection  
35 of the taxes and shall be delivered to the respective school

1 districts.

2 DIVISION II

3 TAXPAYERS TRUST FUND

4 Sec. 3. Section 8.54, subsection 5, Code 2013, is amended by  
5 striking the subsection.

6 Sec. 4. Section 8.55, subsection 2, Code 2013, is amended  
7 to read as follows:

8 2. The maximum balance of the fund is the amount equal to  
9 two and one-half percent of the adjusted revenue estimate for  
10 the fiscal year. If the amount of moneys in the Iowa economic  
11 emergency fund is equal to the maximum balance, moneys in  
12 excess of this amount shall be ~~distributed as follows:~~

13 ~~a. The first sixty million dollars of the difference between~~  
14 ~~the actual net revenue for the general fund of the state for~~  
15 ~~the fiscal year and the adjusted revenue estimate for the~~  
16 ~~fiscal year shall be transferred to the taxpayers trust fund.~~

17 ~~b. The remainder of the excess, if any, shall be transferred~~  
18 ~~to the general fund of the state.~~

19 Sec. 5. Section 8.57E, subsection 2, Code 2013, is amended  
20 to read as follows:

21 2. Moneys in the taxpayers trust fund shall only be used  
22 pursuant to appropriations or transfers made by the general  
23 assembly for tax relief. During each fiscal year beginning on  
24 or after July 1, 2014, in which the balance of the taxpayers  
25 trust fund equals or exceeds thirty million dollars, there is  
26 transferred from the taxpayers trust fund to the Iowa taxpayers  
27 trust fund tax credit fund created in section 422.11E, the  
28 entire balance of the taxpayers trust fund to be used for the  
29 Iowa taxpayers trust fund tax credit in accordance with section  
30 422.11E, subsection 5.

31 Sec. 6. Section 8.58, Code 2013, is amended to read as  
32 follows:

33 **8.58 Exemption from automatic application.**

34 1. ~~To the extent that moneys appropriated under section~~  
35 ~~8.57 do not result in moneys being credited to the general fund~~

1 ~~under section 8.55, subsection 2, moneys~~ Moneys appropriated  
2 ~~under~~ in section 8.57 and moneys contained in the cash reserve  
3 fund, rebuild Iowa infrastructure fund, environment first  
4 fund, Iowa economic emergency fund, and taxpayers trust fund  
5 shall not be considered in the application of any formula,  
6 index, or other statutory triggering mechanism which would  
7 affect appropriations, payments, or taxation rates, contrary  
8 provisions of the Code notwithstanding.

9 2. ~~To the extent that moneys appropriated under section~~  
10 ~~8.57 do not result in moneys being credited to the general fund~~  
11 ~~under section 8.55, subsection 2, moneys~~ Moneys appropriated  
12 ~~under~~ in section 8.57 and moneys contained in the cash reserve  
13 fund, rebuild Iowa infrastructure fund, environment first fund,  
14 Iowa economic emergency fund, and taxpayers trust fund shall  
15 not be considered by an arbitrator or in negotiations under  
16 chapter 20.

17 DIVISION III

18 IOWA TAXPAYERS TRUST FUND TAX CREDIT

19 Sec. 7. TAXPAYERS TRUST FUND — IOWA TAXPAYERS TRUST FUND  
20 TAX CREDIT TRANSFER. During the fiscal year beginning July  
21 1, 2013, there is transferred from the taxpayers trust fund  
22 created in section 8.57E to the Iowa taxpayers trust fund tax  
23 credit fund created in section 422.11E, an amount equal to the  
24 sum of the balance of the taxpayers trust fund as determined  
25 after the close of the fiscal year beginning July 1, 2012, and  
26 ending June 30, 2013, including the amount transferred for that  
27 fiscal year to the taxpayers trust fund from the Iowa economic  
28 emergency fund created in section 8.55 in the fiscal year  
29 beginning July 1, 2013, and ending June 30, 2014, to be used  
30 for the Iowa taxpayers trust fund tax credit in accordance with  
31 section 422.11E, subsection 5.

32 Sec. 8. NEW SECTION. 422.11E Iowa taxpayers trust fund tax  
33 credit.

34 1. For purposes of this section, unless the context  
35 otherwise requires:

1     *a. "Eligible individual"* means, with respect to a tax year,  
2 an individual who makes and files an individual income tax  
3 return pursuant to section 422.13. *"Eligible individual"* does  
4 not include an estate or trust, or an individual for whom an  
5 individual income tax return was not timely filed, including  
6 extensions.

7     *b. "Unclaimed tax credit"* means, with respect to a tax  
8 year, the aggregate amount by which the Iowa taxpayers trust  
9 fund tax credits that were eligible to be claimed by eligible  
10 individuals, if any, exceeds the Iowa taxpayers trust fund tax  
11 credits actually claimed by eligible individuals, if any.

12     2. The taxes imposed under this division, less the credits  
13 allowed under this division except the credits for withheld  
14 tax and estimated tax paid in section 422.16, shall be reduced  
15 by an Iowa taxpayers trust fund tax credit to an eligible  
16 individual for the tax year beginning January 1 immediately  
17 preceding July 1 of any fiscal year during which a transfer, if  
18 any, is made from the taxpayers trust fund in section 8.57E to  
19 the Iowa taxpayers trust fund tax credit fund created in this  
20 section.

21     3. The credit shall be equal to the quotient of the amount  
22 transferred to the Iowa taxpayers trust fund tax credit fund in  
23 the applicable fiscal year, divided by the number of eligible  
24 individuals for the tax year immediately preceding the tax year  
25 for which the credit in this section is allowed, as determined  
26 by the director of revenue in accordance with this section,  
27 rounded down to the nearest whole dollar. The department of  
28 revenue shall draft the income tax form for any tax year in  
29 which a credit will be allowed under this section to provide  
30 the information and space necessary for eligible individuals to  
31 claim the credit.

32     4. Any credit in excess of the taxpayer's liability for the  
33 tax year is not refundable and shall not be credited to the tax  
34 liability for any following year or carried back to a tax year  
35 prior to the tax year in which the taxpayer claims the credit.

1 5. a. There is established within the state treasury under  
2 the control of the department an Iowa taxpayers trust fund  
3 tax credit fund consisting of any moneys transferred by the  
4 general assembly by law from the taxpayers trust fund created  
5 in section 8.57E for purposes of the credit provided in this  
6 section. For the fiscal year beginning July 1, 2013, and for  
7 each fiscal year thereafter, the department shall transfer  
8 from the Iowa taxpayers trust fund tax credit fund to the  
9 general fund of the state, the lesser of the balance of the  
10 Iowa taxpayers trust fund tax credit fund or an amount of money  
11 equal to the Iowa taxpayers trust fund tax credits claimed in  
12 that fiscal year, if any. Any moneys in the Iowa taxpayers  
13 trust fund tax credit fund which represent unclaimed tax  
14 credits shall immediately revert to the taxpayers trust fund  
15 created in section 8.57E. Interest or earnings on moneys in  
16 the Iowa taxpayers trust fund tax credit fund shall be credited  
17 to the taxpayers trust fund created in section 8.57E.

18 b. The moneys transferred to the general fund of the state  
19 in accordance with this subsection shall not be considered new  
20 revenues for purposes of the state general fund expenditure  
21 limitation under section 8.54 but instead as replacement of  
22 a like amount included in the expenditure limitation for the  
23 fiscal year in which the transfer is made.

24 DIVISION IV

25 CONFORMING CHANGES

26 Sec. 9. Section 68A.102, subsection 21, Code 2013, is  
27 amended to read as follows:

28 21. "*State income tax liability*" means either the state  
29 individual income tax imposed under section 422.5, less the  
30 amounts of nonrefundable credits allowed under chapter 422,  
31 division II, or the alternative base income tax imposed under  
32 section 422.5A if applicable.

33 Sec. 10. Section 257.21, unnumbered paragraph 2, Code 2013,  
34 is amended to read as follows:

35 The instructional support income surtax shall be imposed on

1 the state individual income tax for the calendar year during  
2 which the school's budget year begins, or for a taxpayer's  
3 fiscal year ending during the second half of that calendar year  
4 and after the date the board adopts a resolution to participate  
5 in the program or the first half of the succeeding calendar  
6 year, and shall be imposed on all individuals residing in the  
7 school district on the last day of the applicable tax year. As  
8 used in this section, "*state individual income tax*" means either  
9 the taxes computed under section 422.5, less the amounts of  
10 nonrefundable credits allowed under chapter 422, division II,  
11 except for the Iowa taxpayers trust fund tax credit allowed  
12 under section 422.11E, or the tax computed under section 422.5A  
13 if applicable.

14 Sec. 11. Section 422.16, subsection 8, Code 2013, is amended  
15 to read as follows:

16 8. An employer or withholding agent shall be liable for  
17 the payment of the tax required to be deducted and withheld  
18 or the amount actually deducted, whichever is greater, under  
19 subsections 1 and 12 of this section; and any amount deducted  
20 and withheld as tax under subsections 1 and 12 of this section  
21 during any calendar year upon the wages of any employee,  
22 nonresident, or other person shall be allowed as a credit to  
23 the employee, nonresident, or other person against the tax  
24 imposed by section 422.5, or section 422.5A if applicable,  
25 irrespective of whether or not such tax has been, or will  
26 be, paid over by the employer or withholding agent to the  
27 department as provided by this chapter.

28 Sec. 12. Section 422.21, subsection 1, Code 2013, is amended  
29 to read as follows:

30 1. Returns shall be in the form the director prescribes,  
31 and shall be filed with the department on or before the last  
32 day of the fourth month after the expiration of the tax year.  
33 However, cooperative associations as defined in section 6072(d)  
34 of the Internal Revenue Code shall file their returns on or  
35 before the fifteenth day of the ninth month following the

1 close of the taxable year and nonprofit corporations subject  
2 to the unrelated business income tax imposed by section  
3 422.33, subsection 1A, shall file their returns on or before  
4 the fifteenth day of the fifth month following the close of  
5 the taxable year. If, under the Internal Revenue Code, a  
6 corporation is required to file a return covering a tax period  
7 of less than twelve months, the state return shall be for the  
8 same period and is due forty-five days after the due date of  
9 the federal tax return, excluding any extension of time to  
10 file. In case of sickness, absence, or other disability, or  
11 if good cause exists, the director may allow further time for  
12 filing returns. The director shall cause to be prepared blank  
13 forms for the returns and shall cause them to be distributed  
14 throughout the state and to be furnished upon application,  
15 but failure to receive or secure the form does not relieve  
16 the taxpayer from the obligation of making a return that is  
17 required. The department may as far as consistent with the  
18 Code draft income tax forms to conform to the income tax  
19 forms of the internal revenue department of the United States  
20 government. Each return by a taxpayer upon whom a tax is  
21 imposed by section 422.5 or 422.5A shall show the county of the  
22 residence of the taxpayer.

23 Sec. 13. Section 422D.2, Code 2013, is amended to read as  
24 follows:

25 **422D.2 Local income surtax.**

26 A county may impose by ordinance a local income surtax as  
27 provided in section 422D.1 at the rate set by the board of  
28 supervisors, of up to one percent, on the state individual  
29 income tax of each individual residing in the county at the  
30 end of the individual's applicable tax year. However, the  
31 cumulative total of the percents of income surtax imposed on  
32 any taxpayer in the county shall not exceed twenty percent,  
33 except as provided in section 298.14. The reason for imposing  
34 the surtax and the amount needed shall be set out in the  
35 ordinance. The surtax rate shall be set to raise only the

1 amount needed. For purposes of this section, "*state individual*  
2 *income tax*" means either the tax computed under section 422.5,  
3 less the amounts of nonrefundable credits allowed under chapter  
4 422, division II, except for the Iowa taxpayers trust fund tax  
5 credit allowed under section 422.11E, or the tax computed under  
6 section 422.5A if applicable.

7 DIVISION V

8 IMPLEMENTATION

9 Sec. 14. EFFECTIVE UPON ENACTMENT. This Act, being deemed  
10 of immediate importance, takes effect upon enactment.

11 Sec. 15. 1. Except as provided in subsection 2, this  
12 Act applies retroactively to January 1, 2013, for tax years  
13 beginning on or after that date.

14 2. The following provisions of this Act apply retroactively  
15 to July 1, 2012, to moneys attributed to fiscal years beginning  
16 on or after July 1, 2012:

- 17 a. The section of this Act amending section 8.54.
- 18 b. The section of this Act amending section 8.55.
- 19 c. The section of this Act amending section 8.57E.
- 20 d. The section of this Act amending section 8.58.