

MAY 2 2001

WAYS & MEANS CALENDAR

HOUSE FILE 753

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 704)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act establishing an agricultural sales tax advisory council,
2 and providing for the elimination of the council.

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

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HF 753

1 Section 1. NEW SECTION. 422.59A AGRICULTURAL SALES TAX
2 COUNCIL.

3 An agricultural sales tax council is established as
4 provided in this section. The council shall act to advise the
5 department regarding agriculture and methods or policies for
6 the effective administration and enforcement of the provisions
7 of this division relating to agriculture including statutory
8 provisions, departmental rules, current and pending
9 interpretations, and proposed changes in law, interpretation,
10 or policy.

11 1. a. The council shall include ten voting members,
12 including persons representing associations interested in
13 agriculture that are requested by the department to each
14 appoint one member to serve on the council. The associations
15 requested to designate a member shall be the Iowa cattlemen's
16 association, the Iowa pork producers association, the Iowa
17 poultry association, the Iowa dairy products association, the
18 Iowa corn growers association, the Iowa soybean association,
19 the Iowa retail federation, the agribusiness association of
20 Iowa, the Iowa institute for cooperatives, and the Iowa farm
21 bureau federation.

22 b. The council shall include four ex officio, nonvoting
23 legislative members, including the following:

24 (1) Two state senators, one appointed by the president of
25 the senate, after consultation with the majority leader of the
26 senate, and one appointed by the minority leader of the
27 senate, after consultation with the president of the senate,
28 from their respective parties.

29 (2) Two state representatives, appointed by the speaker of
30 the house of representatives, after consultation with the
31 majority leader and the minority leader of the house of
32 representatives, from their respective parties.

33 2. A voting member shall serve at the pleasure of the
34 association making the appointment. Members appointed under
35 this section are subject to the requirements of sections 69.16

1 and 69.16A. The association may designate an alternate member
2 to serve as a substitute for an appointed member who cannot
3 attend a council meeting. The alternate member shall have all
4 the powers and duties of the absent member.

5 3. The council shall adopt rules for its proceedings
6 consistent with this section. The council shall meet as
7 provided by the council. However, the council must meet upon
8 the call of the director or upon written request to the
9 director of any four voting members. Six voting members
10 constitute a quorum and the affirmative vote of a majority of
11 the voting members present is necessary for any substantive
12 action to be taken by the council. The majority shall not
13 include any member who has a conflict of interest and a
14 statement by a member that the member has a conflict of
15 interest is conclusive for this purpose. A vacancy in the
16 membership does not impair the duties of the council. The
17 council shall be staffed by a designee of the director who
18 shall be knowledgeable about the administration of this
19 division.

20 4. The department shall consult with the council regarding
21 matters relating to the administration and enforcement of this
22 division as it impacts upon the production of agricultural
23 commodities or the processing of agricultural commodities into
24 products, including the imposition, exemption from imposition,
25 or the collection of taxes under this division. In carrying
26 out this section, the council may request and shall receive
27 information regarding any of the following:

28 a. Rules adopted by the department or rules proposed to be
29 adopted by the department that impact the production of
30 agricultural commodities or the processing of agricultural
31 commodities into products. The department shall notify the
32 council about the following departmental rules that impact the
33 production of agricultural commodities or the processing of
34 agricultural commodities into products:

35 (1) A proposed rule prior to filing a notice of intended

1 action by the department as provided in section 17A.4, or a
2 proposed rule prior to its becoming effective immediately upon
3 filing by the department as provided in section 17A.5.

4 (2) A rule that is being formally reviewed by the
5 department to determine whether the rule should be repealed or
6 amended or a new rule adopted instead, as provided by section
7 17A.7, according to a departmental policy, or according to an
8 executive order issued by the governor.

9 b. Policies and practices regarding the administration or
10 enforcement of this division that impact the production of
11 agricultural commodities or the processing of agricultural
12 commodities into products, including information regarding
13 pending contested case proceedings as provided in section
14 17A.12 or pending prosecutions, a decision or order in a
15 contested case or prosecution, and the status of judicial
16 review of a final agency action as provided in section 17A.19.
17 However, the department is not required to provide information
18 regarding a contested case proceeding or prosecution that is
19 associated with the work product of an attorney, legal
20 strategy, or settlement negotiation.

21 c. Bills sponsored by the department for consideration by
22 the general assembly. The council shall receive a
23 departmental bill prior to the date that the department
24 submits the bill as prepared by the legislative service bureau
25 for filing.

26 5. The council may provide the department with
27 recommendations regarding matters relating to the
28 administration and enforcement of this division as it impacts
29 the production of agricultural commodities or the processing
30 of agricultural commodities into products, including
31 information required to be provided to council under this
32 section. The department shall consider and respond in writing
33 to recommendations made by the council that the department
34 does not adopt or implement. This section does not require
35 the department to delay an agency action if the department

1 determines that any of the following apply:

2 a. The agency action involves a contested case proceeding.

3 b. Immediate action is necessary to reduce the risk of
4 harm caused by an emergency condition.

5 c. The failure of the council to provide the department
6 with a timely recommendation.

7 6. This section is repealed on July 1, 2011.

8 EXPLANATION

9 This bill amends Code chapter 422, and specifically
10 division IV of that chapter providing for the retail sales
11 tax. The chapter is administered by the department of revenue
12 and finance.

13 The bill establishes an agricultural sales tax council,
14 which includes representatives of associations interested in
15 agriculture including organizations representing producers,
16 processors, and retailers. The council also includes four
17 legislative members serving as nonvoting ex officio members.

18 The bill provides for council procedures, many of which are
19 consistent with other bodies created in the Code.

20 The council may advise the department regarding methods or
21 policies for the effective administration and enforcement of
22 the retail tax provisions affecting agriculture. The
23 department of revenue and finance is required to consult with
24 the council regarding matters relating to the administration
25 and enforcement of retail tax provisions that impact the
26 production of agricultural commodities or the processing of
27 agricultural commodities into products. The bill provides
28 that the council is entitled to receive information regarding
29 rulemaking, enforcement actions, and departmental bills. The
30 council may provide the department with recommendations and
31 the department must respond in writing to recommendations that
32 the department does not adopt or implement. This bill
33 provides that the department may avoid consulting with the
34 council if the agency action involves a contested case
5 proceeding or prosecution, there is an emergency, or the

1 council fails to make a timely recommendation.

2 The bill repeals the provisions on July 1, 2011.

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HOUSE FILE 753

H-1931

1 Amend House File 753, as follows:

2 1. Page 1, line 1, by inserting after the word
3 "TAX" the following: "ADVISORY".

4 2. Page 1, line 3, by inserting after the word
5 "tax" the following: "advisory".

6 3. Page 1, by striking lines 11 through 21, and
7 inserting the following:

8 "____. a. The council shall include six voting
9 members, including all of the following:

10 (1) The director or a designee appointed by the
11 director who shall serve as chairperson of the
12 council.

13 (2) Four persons appointed by the governor,
14 including all of the following:

15 (a) Persons who represent the Iowa retail
16 federation, the institute for cooperatives, and the
17 agribusiness association of Iowa. The governor may
18 make appointments of persons representing the
19 associations from a list of candidates that shall be
20 provided by the associations upon request by the
21 governor.

22 (b) Two agricultural producers actively engaged in
23 the production of a commodity. The two agricultural
24 producers shall use advanced technological innovations
25 in their production operations.

26 The director may appoint an alternate designee and
27 the governor may appoint other alternate voting
28 members in the same manner as the principal designee
29 or other voting members. An alternate member shall
30 serve as a substitute for the principal member who is
31 absent during a council meeting. The alternate member
32 who substitutes for an absent member shall have all
33 the same powers and duties of the absent member."

34 4. By striking page 1, line 33 through page 2,
35 line 4, and inserting the following:

36 "____. The members appointed by the governor shall
37 be appointed in compliance with sections 69.16 and
38 69.16A and shall serve three-year terms beginning and
39 ending as provided by section 69.19. Members
40 appointed by the governor shall serve for staggered
41 terms as provided by the governor and may be
42 reappointed."

43 5. Page 2, by striking lines 8 and 9, and
44 inserting the following: "the call of the chairperson
45 or upon written request to the chairperson of any
46 three voting members. Four voting members".

47 6. Page 2, line 17, by striking the words "a
48 designee of the director" and inserting the following:
49 "an employee of the department".

50 7. Page 4, line 7, by striking the figure "2011"

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Page 2

1 and inserting the following: "2006".

2 8. By renumbering as necessary.

By TEIG of Hamilton

FREVERT of Palo Alto

H-1931 FILED MAY 3, 2001