

House File 2451 substituted 3/27/86

FILED MAR 7 1986

SENATE FILE 2274  
BY COMMITTEE ON SMALL  
BUSINESS AND ECONOMIC  
DEVELOPMENT

Approved 3/7 (J. 623)

Passed Senate, Date \_\_\_\_\_

Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

5393 1 An Act relating to the establishment of private sector small-  
2 business development corporations.

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

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S.F. 2274

5456, 5393 amended  
add

1 Section 1. Section 28.45, Code 1985, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 9. Consult with, advise, make data  
4 available to, and otherwise assist as necessary the small-  
5 business development review committee.

6 Sec. 2. NEW SECTION. 28.121 PURPOSE.

7 The purpose of this division is to facilitate the  
8 establishment and expansion of small businesses in this state  
9 by coordinating the formation of a statewide network of  
10 private sector small-business development corporations which  
11 will serve as guarantors of loans made by commercial lending  
12 institutions to prospective small-business entrepreneurs, and  
13 to otherwise stimulate economic growth by monitoring the  
14 availability of and attempting to procure federal funding  
15 assistance for small-business development programs.

16 Sec. 3. NEW SECTION. 28.122 DEFINITIONS.

17 As used in this division, unless the context otherwise  
18 requires:

19 1. "Small business" means an enterprise, other than an  
20 enterprise organized to practice a profession as defined in  
21 section 496C.2, subsection 1, which is located in this state,  
22 and which is operated for profit and under a single  
23 management, and which has either fewer than twenty employees  
24 or an annual gross income of less than three million dollars.

25 2. "Corporation" or "development corporation" means a  
26 private sector small-business development corporation  
27 organized under chapter 504A or organized for pecuniary profit  
28 under chapter 496A, and includes development corporations  
29 organized under chapter 496B.

30 3. "Region" means a private sector small-business  
31 development region.

32 4. "Fund" means the small-business development fund  
33 established under section 28.124 including state matching  
34 appropriations for loan guaranties managed by the small-  
35 business development review committee.

1 5. "Contributor" means a private entity which commits to  
2 contribute money to a development corporation organized under  
3 chapter 504A upon the call of the corporation.

4 6. "Investor" means a private entity which invests money  
5 in a corporation organized for pecuniary profit under chapter  
6 496A.

7 7. "Committee" means the Iowa small-business development  
8 review committee.

9 Sec. 4. NEW SECTION. 28.123 SMALL-BUSINESS DEVELOPMENT  
10 REVIEW COMMITTEE.

11 1. The Iowa small-business development review committee is  
12 established to assist in the development, promotion,  
13 implementation, and administration of a statewide network of  
14 corporations designed to increase the availability of  
15 financing for small businesses. The committee is a public  
16 corporation established for public purposes. The network is  
17 comprised of eight regions which correspond to the judicial  
18 districts established in section 602.6107 as they are  
19 constituted on the effective date of this Act.

20 2. The committee consists of thirteen members appointed  
21 for four-year terms, subject to sections 69.15 and 69.16, and  
22 beginning and ending in accordance with section 69.19, as  
23 follows:

24 a. Nine members appointed by the governor subject to  
25 confirmation by the senate, no more than five of whom shall be  
26 from the same political party. There shall be one appointee  
27 from each of the eight regions and one from the governor's  
28 office.

29 b. Four nonvoting members from the general assembly, one  
30 from each political party in each house, appointed by the  
31 legislative council.

32 Sec. 5. NEW SECTION. 28.124 COMMITTEE DUTIES AND  
33 ORGANIZATION -- FUND.

34 The committee, in accordance with this division and the  
35 rules adopted under this division, shall:

1 1. Manage and otherwise administer the small-business  
2 development fund, which is established in the office of the  
3 treasurer of state. The fund may include appropriations and  
4 other moneys made available to the committee for the purposes  
5 of loan guaranties under this division. All state moneys  
6 allocated to the corporations shall be from moneys previously  
7 appropriated to the committee.

8 2. Determine how the fund shall be allocated to the  
9 corporations. The committee shall not allocate state moneys  
10 to a corporation in an amount that exceeds fifty percent of  
11 the amount committed to be contributed to or invested in a  
12 corporation's account on call for the purposes of guarantying  
13 small-business loans under this division.

14 3. Facilitate the establishment of at least one  
15 corporation in each region of the state by contacting and  
16 enlisting the participation of potential contributors and  
17 investors.

18 4. Actively seek procurement of moneys available through  
19 the small business investment company program and other  
20 federal funding allocated for small-business assistance  
21 programs.

22 5. Review, at regular and frequent intervals, all loans  
23 guarantied by state moneys under this division in order to  
24 ensure the compliance of all parties with this division and  
25 rules adopted under this division.

26 6. Monitor the operations of businesses started or  
27 expanded through funding made available under this division.

28 7. Ensure that all loans guarantied under this division  
29 are disbursed and collected without discrimination and in  
30 accordance with section 601A.10, subsection 2.

31 8. Adopt rules in accordance with chapter 17A as necessary  
32 or desirable for the administration of this division,  
33 including but not limited to rules governing the making of  
34 loans eligible for guaranties by development corporations,  
35 requirements for the articles of incorporation and bylaws of

1 the corporations, maximum amounts of loans and guaranties,  
2 maximum time for repayment schedules, conflict of interest  
3 prohibitions, the provision for adequate reserves for loan  
4 guaranties, and the segregation of and accounting for moneys  
5 used for loan guaranties to the extent the moneys include  
6 state matching funds.

7 9. Annually elect from its membership a chairperson.  
8 Election of the chairperson shall be held at the committee's  
9 first meeting after May 1 each year. The committee shall meet  
10 at least once a month and otherwise as often as necessary. A  
11 majority of the members constitutes a quorum. Members are  
12 entitled to be compensated for their actual and necessary  
13 expenses incurred in the performance of their duties. All  
14 expense moneys paid to the members shall be paid from funds  
15 appropriated for the use of the small-business division.

16 Sec. 6. NEW SECTION. 28.125 POWERS OF CORPORATIONS.

17 1. A corporation has all powers otherwise granted it by  
18 law and by its articles of incorporation and bylaws.

19 2. A corporation may develop a program, subject to  
20 approval by the committee, if state matching funds are  
21 requested, to guaranty loans made by private lending  
22 institutions to small businesses to maintain or expand their  
23 operations. The program must conform to rules adopted by the  
24 committee and must, in the opinion of the committee, promote  
25 the purposes of this division.

26 Sec. 7. NEW SECTION. 28.126 TAX LIABILITY -- CREDIT.

27 Corporations organized in accordance with chapter 504A are  
28 exempt from the tax imposed under section 422.33. For  
29 purposes of avoiding federal tax liabilities, the articles of  
30 incorporation of the corporations created under this division  
31 shall be written in accordance with sections 504B.2 and  
32 504B.3. Corporations organized for pecuniary profit are  
33 subject to taxes imposed under section 422.33 and eligible for  
34 the tax credit provided in subsection 8 of that section.

35 Sec. 8. NEW SECTION. 28.127 OBLIGATIONS OF STATE --

1 LIMITATIONS.

2 Loan guaranties made by a development corporation for which  
3 the state has contributed matching funds under this division  
4 shall be supported only by the moneys committed or contributed  
5 to the corporation or the fund. A loan or loan guaranty  
6 agreement made by a corporation, contributor, or investor is  
7 not an obligation of the state or any of its subdivisions  
8 except to the extent of moneys previously allocated to the  
9 corporation from the fund. Neither a corporation nor the  
10 committee shall pledge the credit or taxing power of the  
11 state, nor shall either entity make its obligations payable  
12 out of any moneys other than those committed or contributed to  
13 the corporation or previously appropriated to the fund.

14 Sec. 9. Section 422.33, Code Supplement 1985, is amended  
15 by adding the following new subsection:

16 NEW SUBSECTION. 8. The taxes imposed under this division  
17 shall be reduced by a small-business development credit equal  
18 to six percent of the moneys used or reserved for use as loan  
19 guaranties to small businesses by a corporation participating  
20 in a program approved by the small-business development  
21 committee under sections 28.121 through 28.126. The credit is  
22 available during the corporation's first tax year in which the  
23 money is irrevocably reserved for this purpose. However, to  
24 obtain the credit, the corporation shall first obtain a  
25 certificate of eligibility from the small-business development  
26 committee which verifies the amount to which the credit is  
27 applicable for that tax year. The certificate or a certified  
28 copy of it shall be attached to the corporation's return on  
29 which the credit is claimed. A credit in excess of the tax  
30 liability for a year may be carried forward to the three  
31 following tax years or until used in less time. A refund  
32 shall not be given for unused credit.

33 Sec. 10. Notwithstanding section 3 of this Act, of the  
34 initial appointees to the committee three members shall be  
35 appointed for one-year terms, three members shall be appointed

1 for two-year terms, three members shall be appointed for  
2 three-year terms, and four members shall be appointed for  
3 four-year terms. The governor's office shall consult the  
4 legislative council at the time of the original appointments  
5 in order to determine which appointees shall be appointed to  
6 terms of the various durations. The initial appointees'  
7 successors shall be appointed to terms of four years each  
8 except that a person chosen to fill a vacancy shall be  
9 appointed only for the unexpired term of the committee member  
10 replaced.

11 EXPLANATION

12 This bill establishes the Iowa small-business development  
13 review committee and provides for the creation of a statewide  
14 network of private sector small-business development  
15 corporations.

16 The first section calls for the small-business division of  
17 the Iowa development commission to provide the small-business  
18 development review committee with various types of assistance  
19 as necessary.

20 Section 2 states the bill's purpose which is generally to  
21 improve the financial climate for prospective small-business  
22 entrepreneurs.

23 Section 3 defines terminology used throughout the bill and  
24 section 4 establishes the review committee.

25 Section 5 spells out the review committee's primary  
26 responsibilities, particularly those dealing with the  
27 allocation by the committee of state appropriations to the  
28 corporations for loan guaranties, and its organizational  
29 framework.

30 Section 6 addresses the powers of the small-business  
31 development corporations, and section 7 provides a tax  
32 exemption for corporations organized as nonprofit corporations  
33 under chapter 504B and a tax credit equal to six percent of a  
34 corporation's investment in small businesses for corporations  
35 organized for profit.

1 Section 8 specifies the limits of the state's obligations  
2 under this program.

3 Section 9 places the six percent credit in the appropriate  
4 tax statute, and section 10 provides for staggered terms among  
5 the initial appointees to the committee.

6 The bill creates a new division within chapter 28,  
7 tentatively numbered as sections 28.121 through 28.127.

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SENATE FILE 2274

S-5393

1 Amend Senate File 2274 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. Section 99E.10, subsection 2, Code  
5 Supplement 1985, is amended to read as follows:

6 2. Funds transferred to the Iowa plan fund shall  
7 be used for economic development initiatives. As used  
8 in this subsection "economic development initiatives"  
9 means initiatives which encourage development of  
10 capital, research and development of new products, and  
11 development of jobs in this state by expanding  
12 existing business and industry; upgrade academic  
13 institutions in order to maintain and attract business  
14 and industry, creating new businesses and industries;  
15 encourage the conservation of energy in order to  
16 create new jobs and attract new business and industry;  
17 develop alternate methods for the disposal of solid or  
18 hazardous waste; develop markets for products grown or  
19 produced or manufactured in the state including the  
20 promotion of Iowa and Iowa products; and make grants  
21 and loans available to local communities for local  
22 economic development initiatives. "Economic  
23 development initiatives" includes "economic  
24 development projects" which, as used in this  
25 subsection, means a project which creates a new  
26 business or expands an existing business within the  
27 state of Iowa. "Economic development initiatives"  
28 does not include providing loans, grants, bonds, or  
29 any other incentive or assistance for the construction  
30 of a racetrack or other facility where gambling will  
31 be permitted.

32 Sec. 2. 1985 Iowa Acts, chapter 33, section 301,  
33 subsection 1, unnumbered paragraph 1, is amended to  
34 read as follows:

35 This division shall be construed broadly in order  
36 to facilitate achievement of its purposes. The  
37 general assembly finds and declares that a continuing  
38 need for programs to alleviate and prevent adverse  
39 economic conditions exists in this state, and that it  
40 is accordingly necessary to create, expand, and retain  
41 businesses, including agricultural businesses, to  
42 strengthen and revitalize the state's economy. In  
43 order to provide the means and incentives for  
44 encouragement, development, and assistance of  
45 industrial, commercial, and agricultural enterprises,  
46 specific accounts are created within the Iowa fund.  
47 The treasurer of state shall, for the fiscal year  
48 beginning July 1, 1985 and ending June 30, 1986, make  
49 allotments of the moneys within the Iowa plan fund for  
50 economic development created in section 99E.10 to

S-5393 Page 2

1 separate accounts within that fund as follows:  
2 Sec. 3. 1985 Iowa Acts, chapter 33, section 302,  
3 subsection 2, paragraph c, is amended to read as  
4 follows:

5 c. ~~Grants-and-loans~~ Loans to aid in economic  
6 development.

7 Sec. 4. 1985 Iowa Acts, chapter 33, section 302,  
8 subsection 2, is amended by adding the following new  
9 lettered paragraph:

10 NEW LETTERED PARAGRAPH. f. Grants to economic  
11 development projects, as defined in section 99E.10,  
12 subsection 2, if at least fifty percent of the total  
13 cost of the project is paid from sources other than  
14 the Iowa fund. If a project involves purchase or  
15 improvement of real property, a grant may be made only  
16 if the property is located in the state of Iowa."

17 2. Title page, by striking lines 1 and 2 and  
18 inserting the following: "An Act relating to the  
19 provision of grants intended to facilitate the  
20 establishment of businesses within this state."

S-5393 Filed March 19, 1986

BY SMALL, HULTMAN

*W/S 3/27 (p. 916)*

SENATE FILE 2274

S-5456

1 Amend Senate File 2274 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. Section 99E.10, subsection 2, Code  
5 Supplement 1985, is amended to read as follows:

6 2. Funds transferred to the Iowa plan fund shall  
7 be used for economic development initiatives. As used  
8 in this subsection "economic development initiatives"  
9 means initiatives which encourage development of  
10 capital, research and development of new products, and  
11 development of jobs in this state by expanding  
12 existing business and industry; upgrade academic  
13 institutions in order to maintain and attract business  
14 and industry, creating new businesses and industries;  
15 encourage the conservation of energy in order to  
16 create new jobs and attract new business and industry;  
17 develop alternate methods for the disposal of solid or  
18 hazardous waste; develop markets for products grown or  
19 produced or manufactured in the state including the  
20 promotion of Iowa and Iowa products; and make grants  
21 and loans available to local communities for local  
22 economic development initiatives. "Economic  
23 development initiatives" includes "economic  
24 development projects" which, as used in this  
25 subsection, means a project which creates a new  
26 business or expands an existing business within the  
27 state of Iowa. "Economic development initiatives"  
28 does not include providing loans, grants, bonds, or  
29 any other incentive or assistance for the construction  
30 of a racetrack or other facility where gambling will  
31 be permitted.

32 Sec. 2. 1985 Iowa Acts, chapter 33, section 301,  
33 subsection 1, unnumbered paragraph 1, is amended to  
34 read as follows:

35 This division shall be construed broadly in order  
36 to facilitate achievement of its purposes. The  
37 general assembly finds and declares that a continuing  
38 need for programs to alleviate and prevent adverse  
39 economic conditions exists in this state, and that it  
40 is accordingly necessary to create and expand  
41 businesses, including agricultural businesses, to  
42 strengthen and revitalize the state's economy. In  
43 order to provide the means and incentives for  
44 encouragement, development, and assistance of  
45 industrial, commercial, and agricultural enterprises,  
46 specific accounts are created within the Iowa fund.  
47 The treasurer of state shall, for the fiscal year  
48 beginning July 1, 1985 and ending June 30, 1986, make  
49 allotments of the moneys within the Iowa plan fund for  
50 economic development created in section 99E.10 to

1 separate accounts within that fund as follows:

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4 follows:

5 c. ~~Grants-and-loans~~ Loans to aid in economic  
6 development.

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12 subsection 2, if at least fifty percent of the total  
13 cost of the project is paid from sources other than  
14 the Iowa plan fund. If a project involves purchase or  
15 improvement of real property, a grant may be made only  
16 if the property is located in the state of Iowa."

17 2. Title page, by striking lines 1 and 2 and  
18 inserting the following: "An Act relating to the  
19 provision of grants intended to facilitate the  
20 establishment of businesses within this state."

S-5456 Filed March 26, 1986

BY SMALL

*Adopted 3/27 (p. 910)*