

## ECONOMIC DEVELOPMENT AUTHORITY[261]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of 2011 Iowa Code Supplement section 15.106A and 2012 Iowa Acts, House File 2473, section 27, the Economic Development Authority hereby gives Notice of Intended Action to amend Chapter 68, “High Quality Jobs Program (HQJP),” Chapter 74, “Grow Iowa Values Financial Assistance Program,” Chapter 75, “Opportunities and Threats Program,” Chapter 165, “Allocation of Grow Iowa Values Fund,” Chapter 171, “Supplemental Credit or Points,” Chapter 172, “Environmental Law Compliance; Violations of Law,” Chapter 173, “Standard Definitions,” Chapter 174, “Wage, Benefit, and Investment Requirements,” Chapter 175, “Application Review and Approval Procedures,” Chapter 187, “Contracting,” Chapter 188, “Contract Compliance and Job Counting,” and Chapter 189, “Annual Reporting,” Iowa Administrative Code.

The amendments herein do the following: (1) update existing rules to reflect the repeal of the grow Iowa values fund and financial assistance program effective as of June 30, 2012; (2) implement new program features and requirements for the High Quality Jobs Program, including the provision of project completion assistance, made necessary by the enactment of 2012 Iowa Acts, House File 2473; (3) make conforming changes to existing rules regarding standard application review, wage and benefits requirements, and contracting procedures to reflect other changes enacted in 2012 Iowa Acts, House File 2473; (4) make additional clarifications and conforming changes to support the more efficient administration of the Authority’s programs; and (5) update references from the Department of Economic Development to the Economic Development Authority.

The Economic Development Authority Board approved these amendments on July 20, 2012, at the Board’s monthly meeting.

Public comments will be accepted until 4:30 p.m. on September 11, 2012. Interested persons may submit written comments to: Timothy Whipple, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)725-3124; e-mail [tim.whipple@iowa.gov](mailto:tim.whipple@iowa.gov).

After analysis and review of this rule making, the Authority finds that a positive impact on jobs will result. The amendments to the Authority’s rules include an expansion of the High Quality Jobs Program that adds loan-based assistance to the program. Adding such assistance to an existing program not only makes the Authority’s operations more efficient, but it allows the Authority to tailor assistance individually to meet the needs of each business applying to the program.

Moreover, the addition of distress criteria allows businesses in Iowa’s high-unemployment counties to access higher levels of program benefits. The amendments to the High Quality Jobs Program rules achieve this by making more jobs eligible for incentives under the program. Because the Authority awards tax incentives on a per-job basis according to the number of jobs that meet the program’s minimum wage thresholds, allowing a business to trigger incentives for wages at the 100 percent threshold instead of the 120 percent threshold results in more incented jobs for a given project and consequently a greater total incentive. A greater total incentive makes it more likely that a business will locate or expand in Iowa.

These amendments are intended to implement 2012 Iowa Acts, House File 2473, Iowa Code chapter 15 as amended by 2011 Iowa Acts, chapter 118, and Iowa Code chapter 15G as amended by 2011 Iowa Acts, chapter 133.

The following amendments are proposed.

ITEM 1. Amend subrule 68.1(2) as follows:

**68.1(2) Definitions.** In addition to the standard definitions located in 261—Chapter 173, the following definitions apply to the HQJP:

~~“Act” means Iowa Code sections 15.326 to 15.337 as amended by 2009 Iowa Acts, Senate File 344.~~

~~“Annual base rent” means the business’s annual lease payment minus taxes, insurance and operating or maintenance expenses.~~

~~“Biotechnology-related processes” means the use of cellular and biomolecular processes to solve problems or make products. For purposes of this definition, farming activities shall not be included.~~

~~“Community” means a city, county, or other entity established pursuant to Iowa Code chapter 28E.~~

~~“Contractor or subcontractor” means a person who contracts with the eligible business or subcontracts with a contractor for the provision of property, materials, or services for the construction or equipping of a facility of the eligible business.~~

~~“Eligible business” means a business meeting the conditions of Iowa Code section 15.329 as amended by 2009 Iowa Acts, Senate File 344, section 12 2012 Iowa Acts, House File 2473.~~

~~“High quality jobs” means created or retained jobs that meet the wage requirements established in subrule 68.2(4) and subrules 68.2(7) and 68.2(8) when applicable.~~

~~“Program” means the high quality jobs program created pursuant to 2011 Iowa Code Supplement chapter 15, part 13, as amended by 2012 Iowa Acts, House File 2473, division I.~~

~~“Project” means the activity, or set of activities, proposed in the application by the business which will result in accomplishing the goals of the program and for which the business is requesting tax incentives and assistance. A project shall include the start-up, location, expansion, or modernization of a business.~~

~~“Project completion assistance” means financial assistance or technical assistance provided to an eligible business in order to facilitate the start-up, location, modernization, or expansion of the business in this state and provided in an expedient manner to ensure the successful completion of the start-up, location, modernization, or expansion project.~~

~~“Retail business” means any business engaged in the business of selling tangible personal property or taxable services at retail in this state. Retail business includes a business obligated to collect sales or use tax under Iowa Code chapter 423.~~

~~“Value-added agricultural products” means agricultural products which, through a series of activities or processes, can be sold at a higher price than the original purchase price.~~

ITEM 2. Amend subrule 68.2(2) as follows:

**68.2(2) Closures or relocations** Relocations and reductions in operations.

a. The business shall not close or substantially reduce operations in one area of this state and relocate substantially the same operations in a community in another area of this state be solely relocating operations from one area of the state while seeking state or local incentives. A project that does not create new jobs or involve a substantial amount of new capital investment shall be presumed to be a relocation. In determining whether a business is solely relocating operations for purposes of this subrule, the authority will consider whether a letter of support for the move has been provided from the affected local community.

b. The business shall not be in the process of reducing operations in one community while simultaneously applying for assistance under the program. For purposes of this subrule, a reduction in operations within 12 months before or after an application for assistance is submitted to the authority will be presumed to be a reduction in operations while simultaneously applying for assistance under the program.

c. This subrule shall will not be construed to prohibit the business from expanding its operations in a community if existing operations of a similar nature in this state are not closed or substantially reduced.

ITEM 3. Amend subrule 68.2(4) as follows:

**68.2(4) Created and retained jobs.** The business shall create or retain jobs as part of a project.

a. The business shall pay the qualifying wage threshold for HQJP as established in 261—Chapter 174.

b. If the business is creating jobs, the business shall demonstrate that the jobs will pay at least 100 percent of the qualifying wage threshold at the start of the project completion period, at least ~~130~~ 120 percent of the qualifying wage threshold by the project completion date, and at least ~~130~~ 120 percent of the qualifying wage threshold until the maintenance period completion date.

c. If the business is retaining jobs, the business shall demonstrate that the jobs retained will pay at least ~~130~~ 120 percent of the qualifying wage threshold throughout both the project completion period and the maintenance period.

d. Notwithstanding paragraphs “b” and “c” of this subrule, a business located in an economically distressed area shall demonstrate that the jobs will pay at least 100 percent of the qualifying wage threshold throughout the applicable contract period.

ITEM 4. Strike “department” wherever it appears in subrules **68.2(6)**, **68.2(7)** and **68.2(8)** and insert “authority” in lieu thereof.

ITEM 5. Amend subrule 68.3(1) as follows:

**68.3(1) Application.** The ~~department~~ authority shall develop a standardized application and make it available to a business applying for tax incentives and assistance. The application procedures are as follows:

a. ~~An application will not be accepted after project initiation. The project shall not be initiated prior to application. The authority will accept applications only for projects proposed to begin after application and board approval.~~

b. A signature from ~~the appropriate community~~ an official authorized to represent the affected local community ~~shall be~~ is required on the application as an indication that the community is aware of and supports the project. For a project with a qualifying investment of \$10 million or more, the ~~community application shall include an ordinance or resolution of the community’s governing body approving the project shall accompany the application.~~

c. Each application will be reviewed by the ~~department~~ authority. The ~~department~~ authority may request additional information from the business that is applying for tax incentives and assistance or may use other resources to obtain the needed information.

d. If the business meets the eligibility requirements, the ~~department staff~~ authority will prepare a report which includes a summary of the project and a recommendation on the amount of tax incentives and assistance to be offered to the business.

ITEM 6. Amend subrule 68.3(4) as follows:

**68.3(4) Negotiations.** The ~~department reserves the right to enter into negotiations~~ authority may negotiate with the business regarding the amount of tax incentives and assistance the business ~~shall is~~ is to receive under the program. All forms of tax incentives and assistance available under the program ~~may be~~ are subject to negotiations. The ~~department~~ authority shall consider all of the following factors ~~with respect to entering into negotiations in negotiating~~ with the business:

a. Level of need. ~~The three general justifiable reasons for assistance are as follows~~ The following factors will determine the authority’s assessment of need:

(1) ~~The Whether the business can raise only a portion of the debt and equity necessary to complete the project. A gap between sources and uses exists and state or federal funds or both are needed to fill the gap~~ The existence of a gap between the financing required and the financing on hand indicates that tax incentives or assistance may be needed to fill the gap.

(2) ~~The business can raise sufficient debt and equity to complete the project, but~~ Whether the likely returns of the project are inadequate to motivate a company decision maker to proceed with the project even if sufficient debt or equity can be raised to finance the project. Project The existence of such a condition indicates that the project’s risks may outweigh the its rewards and that tax incentives or assistance may be needed to reduce the project’s risks.

(3) ~~The Whether the business is deciding between a site in Iowa (site A “Iowa site”) and a site in another state (site B “out-of-state site”) for its project and the cost of completing the project at the out-of-state site is demonstrably lower. The business argues that the project will cost less at site B and will require a subsidy to equalize costs in order to locate at site A~~ Such a condition indicates that

tax incentives or assistance may be needed to equalize the cost differential between the two sites. The ~~objective is authority will attempt to quantify the cost differential between site A and site B the sites.~~

~~(4) Projects that have already been initiated will not be considered for funding~~ Whether the project has already been initiated. Initiation of a project indicates that additional financing is not necessary to complete the project, and the authority will not provide incentives or assistance to a project that has been initiated prior to application.

b. Quality of the jobs. The ~~department~~ authority shall place greater emphasis on projects involving created or retained jobs that:

(1) to (3) No change.

c. Percentage of created jobs defined as high quality jobs. The ~~department~~ authority will consider the number of high quality jobs to be created versus the total number of created jobs in determining what amount of tax incentives and assistance to offer the business.

d. Economic impact. In measuring the economic impact to this state, the ~~department~~ authority shall place greater emphasis on projects which demonstrate the following:

(1) to (5) No change.

ITEM 7. Amend rule 261—68.4(15) as follows:

**261—68.4(15) Tax incentives and assistance.**

**68.4(1) Sales and use tax refund.** Pursuant to Iowa Code section 15.331A, the approved business may ~~be entitled to claim~~ a refund of the sales and use taxes paid under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

a. No change.

b. *Racks, shelving, and conveyor equipment.* If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may be entitled to a refund of sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the ~~department~~ authority for a refund. The application must include the refund amount being requested and documentation such as invoices or contracts which substantiate the requested amount. The ~~department~~ authority, in consultation with the department of revenue, will validate the refund amount and instruct the department of revenue to issue the refund.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the ~~department~~ authority to businesses approved for high quality jobs program and enterprise zone program benefits shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business's application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the approved business's application shall be considered in the succeeding fiscal year.

**68.4(2) Corporate tax credit for certain sales taxes paid by third-party developer.** Pursuant to Iowa Code section 15.331C, the approved business may claim a corporate tax credit up to an amount equal to the sales and use taxes paid by a third-party developer under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An approved business may elect to receive a refund of all or a portion of an unused tax credit.

a. *Filing a claim.* To receive the tax credit, the approved business shall file a claim ~~with the department~~ as follows:

(1) The third-party developer shall state under oath, on forms provided by the department of revenue, the amount of sales and use taxes paid and submit the forms to the approved business.

(2) The approved business shall, not more than 12 months following project completion, submit the completed forms to the department authority.

(3) In consultation with the department of revenue, the department authority shall issue a tax credit certificate in an amount equal to all or a portion of the sales and use taxes paid by a third-party developer under Iowa Code chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the approved business.

(4) The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate issued by the department authority is attached to the approved business's tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue.

*b. Racks, shelving, and conveyor equipment.* If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may claim a corporate tax credit up to the amount of sales and use taxes paid by a third-party developer and attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department authority for a tax credit. The application must include the tax credit amount being requested and documentation from the third-party developer such as invoices or contracts which substantiate the requested amount. The department authority, in consultation with the department of revenue, will confirm the tax credit amount and issue a tax credit certificate in an amount equal to all or a portion of the sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate issued by the department authority is attached to the approved business's tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue. Any tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. An approved business may elect to receive a refund of all or a portion of an unused tax credit.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the department authority to businesses approved for high quality jobs program and enterprise zone program benefits shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business's application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the approved business's application shall be considered in the succeeding fiscal year.

**68.4(3) Value-added property tax exemption.** Pursuant to Iowa Code section 15.332, the community may exempt from taxation all or a portion of the actual value added by improvements to real property directly related to jobs created or retained by the location or expansion of the approved business and used in the operations of the approved business. The exemption may be allowed for a period not to exceed 20 years beginning the year the improvements are first assessed for taxation. For purposes of this subrule, improvements include new construction and rehabilitation of and additions to existing structures. The exemption shall apply to all taxing districts in which the real property is located. The community shall provide the department authority and the local assessor with a copy of the resolution adopted by its governing body which indicates the estimated value and duration of the authorized exemption.

**68.4(4) Investment tax credit.**

*a. Claiming the investment tax credit.* Pursuant to Iowa Code section 15.333, the approved business may claim an investment tax credit equal to a percentage of the new investment directly related to jobs created or retained by the start-up, location, expansion, or modernization of the approved business under the program. The tax credit shall be earned when the qualifying asset is placed in service.

(1) Five-year amortization period. The tax credit shall be amortized ~~equally~~ over a five-year period ~~which the department will, in consultation with the approved business, define.~~ The annual amounts that may be claimed by the business during that period are subject to negotiations. The final five-year amortization period and the negotiated annual amounts will be specified in the agreement referenced in subrule 68.5(1) a contract entered into with the authority. The tax credit shall be allowed against taxes imposed under Iowa Code chapter 422, division II, III, or V and against the moneys and credits tax imposed in Iowa Code section 533.24.

(2) and (3) No change.

*b. Investment qualifying for the tax credit.* For purposes of this subrule, new investment directly related to jobs created or retained by the start-up, location, expansion or modernization of the approved business under the program means all of the following:

(1) to (3) No change.

(4) The annual base rent paid to a third-party developer by an approved business for a period equal to the term of the lease agreement but not to exceed the maximum term ~~of the agreement referenced in subrule 68.5(1)~~ specified in a contract entered into with the authority, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the approved business. Annual base rent shall be considered only when the project includes the construction of a new building or the major renovation of an existing building. The approved business shall enter into a lease agreement with the third-party developer for a minimum of five years.

~~Pursuant to subrule 68.4(9), the~~ The approved business shall not claim a tax credit above the amount defined in the final award documentation or the amount specified in a contract entered into with the authority.

*c. Refunds.*

~~(1) Refund of unused tax credit. Subject to prior approval by the department, in consultation with the department of revenue, an approved business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund of all or a portion of an unused tax credit.~~

~~(2) IRS Section 521. For purposes of this paragraph, an approved business includes a cooperative, described in Section 521 of the Internal Revenue Code, that is not required to file an Iowa corporate income tax return and whose project primarily involves the production of ethanol.~~

~~(3) Refund of unused tax credit procedures. For application to receive a refund of all or a portion of an unused tax credit, the following procedures apply:~~

~~1. Department approval required. The department will determine whether an approved business's project primarily involves the production of value-added agricultural products or uses biotechnology-related processes.~~

~~2. Application for a tax credit certificate. The approved business shall apply for a tax credit certificate using the form provided by the department. Requests for tax credit certificates will be accepted between May 1 and May 15 of each fiscal year. Only those approved businesses that have been issued final award documentation pursuant to subrule 68.4(9) before the May 1 filing date may apply for a tax credit certificate.~~

~~The department shall require the cooperative, as described in Section 521 of the Internal Revenue Code, to submit a list of members whom the cooperative wishes to receive a tax credit certificate for their prorated share of ownership. The cooperative shall submit its list in a computerized electronic format that is compatible with the system used or designated by the department. For each cooperative member approved for a tax credit certificate, the computerized list shall, at a minimum, include the name, address, social security number or taxpayer identification number, business telephone number and ownership percentage, carried out to six decimal places. The cooperative shall also submit a total dollar amount of the unused investment tax credit for which the cooperative's members are requesting a tax credit certificate.~~

~~(4) Issuance of tax credit certificates. The department shall not issue tax credit certificates to approved businesses in the high quality jobs program and the enterprise zone program which total more~~

than \$4 million during a fiscal year. If the department receives applications for tax credit certificates in excess of \$4 million, the applicants shall receive certificates for a prorated amount. In such a case, the tax credit requested by an approved business will be prorated based upon the total dollar amount of requested tax credit certificates received during the fiscal year. This proportion will be applied to the amount requested by each approved business to determine the amount of the tax credit certificate that will be distributed to each business for the fiscal year. For example, if an approved business submits a request in the amount of \$1 million and the total amount of requested tax credit certificates equals \$8 million, the business will be issued a tax credit certificate in the amount of \$500,000 ( $\$4 \text{ million} / \$8 \text{ million} = 50\% \times \$1 \text{ million} = \$500,000$ ). The department will issue tax credit certificates within a reasonable period of time following the May 15 application deadline.

~~(5) Claiming the tax credit certificate. Tax credit certificates shall not be valid until the tax year following the date the final award documentation was issued. The tax credit certificates shall not be transferred except in the case of a cooperative as described in Section 521 of the Internal Revenue Code whose approved project primarily involves the production of ethanol. For such cooperative, the individual members of the cooperative are approved to receive the tax credit certificates. The approved business may not claim a tax credit refund unless a tax credit certificate issued by the department is attached to the taxpayer's tax return for the tax year in which the tax credit refund is claimed.~~

~~(6) Carryforward. An approved business may apply for a tax credit certificate once each year for up to seven years after the final award documentation is issued or until the approved business's unused tax credit is depleted, whichever occurs first. For example, an approved business which receives its final award documentation in October 2005 and has an investment tax credit of \$1 million may apply for a tax credit certificate in May 2006. If, because of proration of the \$4 million of available refundable credits for the fiscal year, the business is awarded a tax credit certificate in the amount of \$300,000, the business may claim the \$300,000 refund and carry forward the unused investment tax credit of \$700,000 up to seven years or until the credit is depleted, whichever occurs first.~~

**68.4(5) Insurance premium tax credit.** Pursuant to Iowa Code section 15.333A, the approved business may claim an insurance premium tax credit equal to a percentage of the new investment directly related to jobs created or retained by the start-up, location, expansion, or modernization of the approved business under the program.

*a. Claiming the tax credit.* The tax credit shall be earned when the qualifying asset is placed in service. The tax credit shall be amortized equally over a five-year period which the ~~department authority~~ will, in consultation with the eligible business, define. The five-year amortization period shall be specified in ~~the agreement referenced in subrule 68.5(1)~~ a contract entered into with the authority. The tax credit shall be allowed against taxes imposed under Iowa Code chapter 432. A tax credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs first.

*b. Investment qualifying for the tax credit.* For purposes of this subrule, new investment directly related to jobs created or retained by the start-up, location, expansion or modernization of the approved business under the program means all of the following:

(1) to (3) No change.

(4) The annual base rent paid to a third-party developer by an approved business for a period equal to the term of the lease agreement but not to exceed the maximum term ~~of the agreement referenced in subrule 68.5(1)~~ specified in a contract entered into with the authority, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the approved business. Annual base rent shall be considered only when the project includes the construction of a new building or the major renovation of an existing building. The approved business shall enter into a lease agreement with the third-party developer for a minimum of five years.

~~Pursuant to subrule 68.4(9), the~~ The approved business shall not claim a tax credit above the amount defined in the final award documentation or the amount specified in a contract entered into with the authority.

**68.4(6) Research activities credit.** Pursuant to Iowa Code section 15.335, the approved business may claim a corporate tax credit for increasing research activities in Iowa during the period the approved business is participating in the program.

*a. to d.* No change.

*e. Definitions.* For purposes of this subrule, “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code except that, for the alternative incremental credit, such amounts are for research conducted within Iowa. For purposes of this subrule, “Internal Revenue Code” means ~~the Internal Revenue Code in effect on January 31, 2005~~ the same as defined in 2011 Iowa Code Supplement section 15.335.

*f.* No change.

*g. Renewable energy generation components.* For purposes of this subrule, “research activities” includes the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa. A renewable energy generation component will no longer be considered innovative when more than 200 megawatts of installed effective nameplate capacity has been achieved. Research activities credits awarded under this program and the enterprise zone program for innovative renewable energy generation components shall not exceed ~~\$1 million~~ the amount specified in 2011 Iowa Code Supplement section 15.335.

**68.4(7) Maximum tax incentives available.** Tax incentives ~~and assistance~~ awarded under this program are based upon the number of jobs created or retained that pay the qualifying wage threshold for HQJP as established in 261—Chapter 174 and as defined in 261—Chapter 173 and the amount of qualifying investment. The maximum possible award is based on the following schedule:

*a.* No high quality jobs are created or retained but economic activity is furthered by the qualifying investment. For purposes of this paragraph, “economic activity” means a modernization project which will result in increased skills and wages for the current employees; ~~or a project involving retained jobs; or a project that involves a waiver, granted by the board pursuant to rule 261—174.6(15E,15G,83GA,SF344), of the qualifying wage threshold calculation if the reason for the waiver is that damages were sustained as a result of a natural disaster in a presidentially declared disaster area.~~

(1) to (3) No change.

*b. to j.* No change.

**68.4(8) Award limitations.** ~~Each calendar year, the department shall not approve more than \$3.6 million worth of investment tax credits and insurance premium tax credits for projects with qualifying investments of less than \$1 million. Tax credits subject to this limitation will be awarded on a first-come, first-served basis.~~

**68.4(9) Final award amounts.** ~~Rescinded IAB 7/15/09, effective 7/1/09.~~

ITEM 8. Adopt the following **new** rule 261—68.5(15):

**261—68.5(15) Project completion assistance.**

**68.5(1) Statutory authority.** In 2012 Iowa Acts, House File 2473, the HQJP was amended to allow for the provision of project completion assistance in addition to the tax incentives already available under the program. Project completion assistance is defined in subrule 68.1(2) and includes loans, forgivable loans, and other forms of direct financial assistance.

**68.5(2) Awards and negotiations.** The authority may award project completion assistance to a business that meets the eligibility requirements of the HQJP. All award determinations are subject to the requirements of 2012 Iowa Acts, House File 2473, section 13, subsection 3. The board, with the assistance of authority staff, will attempt to determine the amount of project completion assistance that will ensure successful completion of a project, and the board will make a good-faith effort to provide only the amount of incentives and assistance necessary to facilitate the project’s successful completion. The amount, type, and terms of the assistance provided typically vary according to the needs of each project, and each award is subject to negotiation. The board and the authority will attempt to treat similarly situated applicants similarly; however, the amount, type, and terms of project completion



assistance most appropriate for a given project are necessarily dependent on many factors, and awards of project completion assistance shall be entirely at the discretion of the board.

**68.5(3)** *Factors affecting the amount, type, and terms of project completion assistance.* When determining an award of project completion assistance, the board, with the assistance of authority staff, typically considers many factors, including the following:

- a. The fiscal impact ratio of the project.
- b. Whether the amount of assistance to be awarded is appropriate to the number of jobs that will be created.
- c. The availability of funding.
- d. Whether other forms of assistance, including tax incentives, are available.
- e. The project's level of need, including whether the local community and the private sector are also contributing to the success of the project.
- f. The total amount of funds from other sources that can be leveraged.
- g. The quality of the project.

ITEM 9. Amend **261—Chapter 68**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code sections 15.326 to 15.336 Supplement chapter 15, part 13, as amended by 2009 Iowa Acts, Senate File 344 2012 Iowa Acts, House File 2473, division I.

ITEM 10. Adopt the following new rule 261—74.8(15):

**261—74.8(15) Applicability of the grow Iowa values financial assistance program on or after July 1, 2012.**

**74.8(1)** Effective as of July 1, 2012, the grow Iowa values fund and financial assistance program as amended by 2009 Iowa Acts, Senate File 344, and elsewhere in these rules referred to as IVF(2009), was repealed by 2011 Iowa Acts, chapter 133. The repeal took effect on June 30, 2012.

**74.8(2)** For awards made on or after July 1, 2009, and on or before June 30, 2012, the rules applicable to the IVF(2009) shall be applicable for purposes of contract administration and closeout of projects.

**74.8(3)** A contract amendment will not be allowed if such an amendment would increase the amount of assistance to be provided under the contract.

ITEM 11. Amend **261—Chapter 74**, implementation sentence, as follows:

These rules are intended to implement 2009 Iowa Acts, Senate File 344, section 3 2011 Iowa Code Supplement chapter 15G, subchapter I.

ITEM 12. Adopt the following new rule 261—75.6(15):

**261—75.6(15) Applicability of the opportunities and threats program on or after July 1, 2012.**

**75.6(1)** Effective as of July 1, 2012, the grow Iowa values fund and financial assistance program as amended by 2009 Iowa Acts, Senate File 344, and elsewhere in these rules referred to as IVF(2009), was repealed by 2011 Iowa Acts, chapter 133. The repeal took effect on June 30, 2012.

**75.6(2)** For awards made on or after July 1, 2009, and on or before June 30, 2012, the rules applicable to the opportunities and threats program shall be applicable for purposes of contract administration and closeout of projects.

**75.6(3)** A contract amendment will not be allowed if such an amendment would increase the amount of assistance to be provided under the contract.

ITEM 13. Amend **261—Chapter 75**, implementation sentence, as follows:

These rules are intended to implement 2009 Iowa Acts, Senate File 344, section 4 2011 Iowa Code Supplement chapter 15G, subchapter I.

ITEM 14. Adopt the following new rule 261—165.7(15):

**261—165.7(15) Applicability of the grow Iowa values financial assistance program on or after July 1, 2012.**

**165.7(1)** Effective as of July 1, 2012, the grow Iowa values fund and financial assistance program as amended by 2009 Iowa Acts, Senate File 344, and elsewhere in these rules referred to as IVF(2009), was repealed by 2011 Iowa Acts, chapter 133. The repeal took effect on June 30, 2012.

**165.7(2)** For awards made on or after July 1, 2009, and on or before June 30, 2012, the rules applicable to the IVF(2009) shall be applicable for purposes of contract administration and closeout of projects.

ITEM 15. Amend **261—Chapter 165**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapter 15G ~~as amended by 2009 Iowa Acts, Senate File 344, subchapter I.~~

ITEM 16. Amend rule 261—171.1(15A) as follows:

**261—171.1(15A) Applicability.** Pursuant to Iowa Code chapter 15A, the ~~department~~ authority will give additional consideration or additional points in the application of rating or evaluation criteria in providing a loan, grant, or other financial assistance for economic development-related purposes to a business or person that meets the requirements of this chapter. Unless prohibited by state or federal law or rule, ~~department~~ authority programs using a point system will provide supplementary credit of up to a maximum of ten points for applicants meeting the requirements of this chapter.

ITEM 17. Strike “department” and “department’s” wherever they appear in rules **261—172.1(15A)** and **261—172.2(15A)** and insert “authority” and “authority’s,” respectively, in lieu thereof.

ITEM 18. Amend rule 261—173.1(15,15G,83GA,SF344) as follows:

**261—173.1(15,15G,83GA,SF344) Applicability.**

**173.1(1) Current programs.** Effective July 1, ~~2009~~ 2012, this chapter shall apply to the following programs and funding sources:

- a. EDSA (economic development set-aside) program (261—Chapter 23).
- b. EZ (enterprise zone) program (261—Chapter 59).
- c. HQJP (high quality jobs program) (261—Chapter 68).
- d. ~~Grow Iowa values fund—IVF(2009).~~

**173.1(2) Prior programs—transition provision.** The programs listed in paragraphs “a” to “f” were repealed by 2009 Iowa Acts, Senate File 344, effective July 1, 2009. The rules in effect on June 30, 2009, under this chapter shall apply to the following prior programs until such time as the contracts for these prior programs are closed by the ~~department~~ authority:

- a. VAAPFAP (value-added agricultural products and processes financial assistance program) (261—Chapter 57).
- b. CEBA (community economic betterment account) program (261—Chapter 53).
- c. EVA (entrepreneurial ventures assistance) program (261—Chapter 60).
- d. TSBFAP (targeted small business financial assistance program) (261—Chapter 55).
- e. PIAP (physical infrastructure assistance program) (261—Chapter 61).
- f. LCG (loan and credit guarantee) program (261—Chapter 69).

**173.1(3) Grow Iowa values fund (IVF(2009))—transition provision.** The grow Iowa values fund and financial assistance program as amended by 2009 Iowa Acts, Senate File 344, was repealed by 2011 Iowa Acts, chapter 133. The repeal took effect on June 30, 2012. The rules pertaining to the grow Iowa values fund and financial assistance program that were in effect upon the repeal of the program shall apply to all awards made and all contracts entered into under the program after July 1, 2009, and on or before June 30, 2012, and shall continue to apply until such time as all such contracts, including all amendments to such contracts, reach the end of their effective contract periods and are closed by the authority.

ITEM 19. Amend rule 261—173.2(15,15G,83GA,SF344) as follows:

**261—173.2(15,15G,83GA,SF344) Definitions.** As used in these rules unless the context otherwise requires:

“Agricultural products advisory council” or “APAC” means the council which is composed of five members appointed by the secretary of agriculture and five members appointed by the director of the Iowa department of economic development who are experienced in marketing or exporting agricultural commodities or products, financing the export of agricultural commodities or products, or adding value to and the processing of agricultural products as further described in Iowa Code section 15.203 and which reviews value added agriculture component applications and makes recommendations to the board.

“Authority” means the economic development authority created in 2011 Iowa Code Supplement section 15.105.

“Award date” means the date the board or the director approved an application for project completion assistance, other direct financial assistance, or tax credit incentives.

“Base employment level” means the number of full-time equivalent positions at a business, as established by the department authority and a business using the business’s payroll records, as of the date a business applies for financial assistance tax incentives or project completion assistance. The number of jobs the business has pledged to create and retain shall be in addition to the base employment level.

“Benefits” means all of the following nonwage compensation provided to an employee: medical and dental insurance plans, pension, retirement, and profit-sharing plans, child care services, life insurance coverage, vision insurance coverage, and disability insurance coverage nonwage compensation provided to an employee. Benefits include medical and dental insurance plans, pension, retirement, and profit-sharing plans, child care services, life insurance coverage, vision insurance coverage, and disability insurance coverage. Benefits may include other nonwage compensation as determined by the board.

“Board” means the Iowa members of the economic development board established under Iowa Code section 15.103 authority appointed by the governor and in whom the powers of the authority are vested pursuant to 2011 Iowa Code Supplement section 15.105.

“Business” means a sole proprietorship, partnership, or corporation, or other business entity organized for profit or not for profit under the laws of the state of Iowa or another state, under federal statutes, or under the laws of another country.

“County wage” means the county wage calculation performed by the department pursuant to 2009 Iowa Acts, Senate File 344, section 3.

“Created job” means a new, permanent, full-time equivalent (FTE) position added to a business’s payroll in excess of the base employment level at the time of application for tax incentives or project completion assistance.

“Department” means the Iowa department of economic development created by Iowa Code section 15.105.

“Director” means the director of the Iowa department of economic development authority.

“Due diligence committee” or “DDC” means the due diligence committee composed of members of the board whose duties include, but are not limited to, carrying out any duties assigned by the board in relation to programs administered by the department, reviewing applications for financial assistance, conducting a thorough review of proposed projects and making recommendations to the board regarding funding organized by the board pursuant to 261—Chapter 1.

“Employee” means:

1. An individual filling a full-time position that is part of the payroll of the business receiving financial assistance from any of the programs identified in rule 261—173.1(15,15G,83GA,SF344).

2. A business’s leased or contract employee, provided all of the following elements are satisfied:

• The business receiving the state financial tax incentives or project completion assistance has a legally binding contract with a third-party provider to provide the leased or contract employee.

- The contract between the third-party provider and the business specifically requires the third-party provider to pay the wages and benefits at the levels required and for the time period required by the department authority as conditions of the financial assistance award to the business.
- The contract between the third-party provider and the business specifically requires the third-party provider to submit payroll records to the department authority, in form and content and at the frequency found acceptable to the department authority, for purposes of verifying that the business's job creation/retention and benefit requirements are being met.
- The contract between the third-party provider and the business specifically authorizes the department authority, or its authorized representatives, to access records related to the funded project.
- The business receiving the state financial tax incentives or project completion assistance agrees to be contractually liable to the department authority for the performance or nonperformance of the third-party provider.

"Equity investment" means common or preferred corporate stock or warrants to acquire such stock, membership interests in limited liability companies, partnership interests in partnerships, or near equity. Equity is limited to securities or interests acquired only for cash and does not include securities or interests acquired at any time for services, contributions of property other than cash, or any other non-cash consideration.

"Equity-like investment assistance" means ~~the provision of~~ assistance provided in such a manner that the potential return on investment to the provider varies according to the profitability of the company assisted. This Equity-like assistance includes but is not limited to: royalty arrangements; success payments; warrant arrangements; or other similar forms of investments. Equity-like assistance does not include equity investments.

"Financial assistance" means assistance provided only from the funds, rights, and assets legally available to the authority. Financial assistance includes assistance provided in the form of grants, loans, forgivable loans, float loans, equity-like ~~investment~~ assistance, and royalty payments and other forms of assistance deemed appropriate by the board, consistent with Iowa law.

"Fiscal impact ratio" or "FIR" means a ratio calculated by estimating the amount of taxes to be received by the state from a business and dividing the estimate by the estimated cost to the state of providing certain ~~financial incentives~~ project completion assistance and tax incentives to the business, reflecting a ten-year period of taxation and incentives and expressed in terms of current dollars. "Fiscal impact ratio" does not include taxes received by political subdivisions.

"Full-time equivalent job" or "full-time" means the employment of one person:

1. For 8 hours per day for a 5-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations and other paid leave; or
2. The number of hours or days per week, including paid holidays, vacations and other paid leave, currently established by schedule, custom, or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit, provided that the number of hours per week is at least 32 hours per week for 52 weeks per year including paid holidays, vacations, and other paid leave.

For purposes of this definition, "employment of one person" means the employment of one natural person and does not include "job sharing" or any other means of aggregation or combination of hours worked by more than one natural person.

"Grant" means an award of assistance with the expectation that, with the fulfillment of the conditions, terms and obligations of the contract with the department authority for the project, repayment of funds is not required.

"ICF" means the innovation and commercialization fund ~~established by 2009 Iowa Acts, Senate File 142~~ created in Iowa Code section 15.412.

"IVF(2009)" means the grow Iowa values fund and financial assistance program established by Iowa Code section 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2, and as repealed by 2011 Iowa Acts, chapter 133. IVF(2009) does not include programs funded under the grow Iowa values fund prior to 2009. Rule 261—173.1(15) applies in determining which rules apply to which programs.

“Laborshed area” means the geographic area surrounding an employment center from which the employment center draws its commuting workers. The Iowa department of workforce development (IWD) determines the employment centers and defines the boundaries of each laborshed area. IWD defines laborshed areas by surveying commuters within the various zip codes surrounding an employment center, combining the zip codes into as many as three zones, and determining how many people commute from a zip code to the employment center from each zone. The zones reflect the fact that as the distance from an employment center increases, the number of people willing to commute to the employment center decreases. When determining the applicable laborshed wage, the authority will use the closest laborshed area, as determined by road distance between the employment center and the zip code of the project location.

“Laborshed wage” means the same as defined in 2011 Iowa Code Supplement section 15.327 as amended by 2012 Iowa Acts, House File 2473. The authority will calculate the laborshed wage as follows:

1. The most current covered wage and employment data available from IWD will be used.
2. The wage will be computed as a mean wage figure and represented in terms of an hourly wage rate.
3. Only the wages paid by employers for jobs performed within the first two zones of a laborshed area will be included.
4. The wages paid by employers in the following categories will be excluded from the calculation: government, retail trade, health care and social assistance, and accommodations and food service. The wages paid by employers in all other categories will be included in the calculation.
5. To the extent that a laborshed area includes zip codes from states other than Iowa, the wages paid by employers in those zip codes may be included if IWD has finalized a data-sharing agreement with the state in question and has received the required data.
6. Only those wages within two standard deviations from the mean wage will be included.

“Loan” means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the conditions of the award. “Loan” includes deferred loans, forgivable loans, and float loans. A “deferred loan” is one for which the payment for principal, interest, or both, is not required for some specified period. A “forgivable loan” is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions. A “float loan” means a short-term loan (maximum of not to exceed 30 months) made from obligated but unexpended IVF(2009) funds moneys.

“Loan and credit guarantee committee” means the loan and credit guarantee committee composed of members of the board and whose duties include, but are not limited to, carrying out any duties assigned by the board in relation to the loan and credit guarantee program administered by the department, reviewing loan and credit guarantee applications and making recommendations to the board regarding funding.

“Loan guarantee” means a guarantee of all or part of a loan made by a commercial lender. Payment of all or a portion of the loan guarantee would occur if the business defaults on its repayment of the loan, provided the lender has exhausted standard legal remedies in an attempt to secure repayment from the borrower.

“Maintenance period” means the period of time between the project completion date and the maintenance period completion date.

“Maintenance period completion date” means the date on which the maintenance period ends. It is the specific date established by the department past the project completion date through which the recipient shall maintain the project, the created jobs, and the retained jobs. The specific date on which the maintenance period ends will be established by contract between the authority and the business. The maintenance period completion date will be a date on or after the project completion date and will be used to establish the period of time during which the project, the created jobs, and the retained jobs must be maintained. Rule 261—187.3(15) provides standard durations for project completion and maintenance periods.

“Project completion,” for in the case of the EZ program and HQJP tax credit programs, for purposes of reporting to the Iowa department of revenue that a project has been completed, means:

1. For new manufacturing facilities, the first date upon which the average annualized production of finished product for the preceding 90-day period at the manufacturing facility is at least 50 percent of the initial design capacity of the facility.

2. For all other projects, the date of completion of all improvements necessary for the start-up, location, expansion or modernization of a business.

“Project completion assistance” means financial assistance or technical assistance provided to an eligible business in order to facilitate the start-up, location, modernization, or expansion of the business in this state and provided in an expedient manner to ensure the successful completion of the start-up, location, modernization, or expansion project.

“Project completion date” means the date by which a recipient of incentives or assistance has agreed to meet all the terms and obligations contained in an agreement with the authority. The specific date established by the department by which a recipient of financial assistance shall have completed all pledged project activities, met its job creation and job retention obligations, and otherwise satisfied the terms and obligations of the contract with the department for a project on which the project completion period ends will be established by contract between the authority and the business. The project completion date will be a date on which the project must be completed, all incented jobs must be created or retained, and all other applicable requirements must be met. (See rule Rule 261—187.3(15) for a listing of the duration of the project completion period and maintenance period for IDED’s job creation and tax credit programs.) provides standard durations for project completion and maintenance periods.

“Project completion period” means the period of time between the date financial assistance is awarded (the “award date”) and the project completion date.

“Project initiation” means, for all programs and funding sources except EDSA, any one of the following:

1. The start of construction of new or expanded buildings;
2. The start of rehabilitation of existing buildings;
3. The purchase or leasing of existing buildings; or
4. The installation of new machinery and equipment or new computers to be used in the operation of the business’s project.

The purchase of land or signing an option to purchase land or earth moving or other site development activities not involving actual building construction, expansion or rehabilitation shall not constitute project initiation. The costs of any land purchase and site development work incurred prior to the award are not eligible qualifying investment expenses.

“Qualifying wage threshold” means the county wage or the regional wage, as calculated by the department, whichever is lower laborshed wage for an eligible business. The qualifying wage thresholds for the authority’s programs are described in 261—Chapter 174.

“Regional wage” means the regional wage calculation performed by the department pursuant to 2009 Iowa Acts, Senate File 344, section 3.

“Retained job” means a full-time equivalent permanent position in existence at the time an employer applies for financial assistance which remains continuously filled or authorized to be filled as soon as possible and which is at risk of elimination if the project for which the employer is seeking assistance does not proceed. The authority may require a business to verify that a job is at risk. Such verification may include the signed statement of an officer of the business, documentation that the business is actively exploring other sites for the project, or any other information the authority may reasonably require during the application review process to establish that a job is at risk.

“Sufficient benefits” means that the employer applying for financial assistance offers to each full-time equivalent permanent position a benefits package that meets one of the following:

1. The employer pays 80 percent of the premium costs for a standard medical and dental plan for single employee coverage with a \$750 maximum deductible; or
2. The employer pays 50 percent of the premium costs for a standard medical and dental plan for employee family coverage with a \$1,500 maximum deductible; or
3. The employer provides medical coverage and pays the monetary equivalent of paragraph “1” or “2” above in supplemental employee benefits. Benefits counted toward monetary equivalent could

include medical coverage, dental coverage, vision insurance, life insurance, pension, retirement (401k), profit sharing, disability insurance, child care services, and other nonwage compensation approved by the board.

*“Sufficient benefits credit”* means a benefits credit for which a business qualifies if the business provides sufficient benefits to each employee holding a created or retained job. This credit can be applied against the 130 percent qualifying wage requirement. The credit shall be calculated and applied as follows:

1. By multiplying the qualifying wage threshold of the county in which the business is located by one and three tenths.

2. By multiplying the result of paragraph “1” by one tenth.

3. The amount of the result of paragraph “2” shall be credited against the amount of the 130 percent qualifying wage threshold requirement that the business is required to meet.

4. The credit shall not be applied against the 100 percent qualifying wage threshold requirement.

*“Technology commercialization committee”* means the committee established by the board pursuant to Iowa Code section 15.116 to evaluate and approve funding for projects and programs referred to in Iowa Code section 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2 organized by the board pursuant to 261—Chapter 1.

ITEM 20. Amend 261—Chapter 173, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapters 15, 15G as amended by 2009 2012 Iowa Acts, Senate House File 344 2473, and 15G, subchapter I, and Iowa Code chapter 17A.

ITEM 21. Strike “15, 15G, 83GA, SF344” wherever it appears in rules 261—174.1(15, 15G, 83GA, SF344), 261—174.3(15, 15G, 83GA, SF344), 261—174.6(15E, 15G, 83GA, SF344) and 261—174.10(15, 15G, 83GA, SF344) and insert “15” in lieu thereof.

ITEM 22. Amend rule 261—174.2(15, 15G, 83GA, SF344) as follows:

**261—174.2(15, 15G, 83GA, SF344) Annual qualifying Qualifying wage threshold calculations.**

**174.2(1) Annual updates.** The department authority will update the county and regional qualifying wage thresholds described in this chapter annually each fiscal year, and these. The thresholds will become effective take effect on July 1 of each fiscal year and remain in effect until the end of the fiscal year.

**174.2(2) Effective date of county wage and regional wage qualifying thresholds.** Businesses that submit a project review form to the department will be subject to county and regional qualifying wage thresholds in effect on the date the department receives the project review form provided that the business’s application is received and approved within six months of the date the project review form was received by the department. If more than six months have elapsed, the business will be subject to the wage thresholds in effect on the date the department receives the business’s completed application. **Applicability to applications.** The qualifying wage threshold applicable to a project is the threshold in effect on the date the fully completed project application for the applicable program is received by the authority. If such an application is received but not acted upon by the board before the qualifying wage thresholds are updated, the thresholds in effect on the date the application was received will remain in effect for a period of three months notwithstanding that the thresholds are subsequently updated. The authority shall have sole discretion in determining whether an application is fully completed.

**174.2(3) Phase-in of large increases.** Notwithstanding the definition of laborshed wage in 261—Chapter 173, if the authority updates qualifying wage thresholds pursuant to subrule 174.2(1) and determines that, after calculation by IWD, the laborshed wage of a laborshed area would increase by more than one dollar per hour, the authority will limit the amount of that laborshed area’s increase for that annual update to one dollar per hour. This subrule will be applied at each annual update pursuant to subrule 174.2(1) and will be applied by measuring the result of the calculation described in the definition of laborshed area against the most recent qualifying wage threshold published pursuant to subrule 174.2(1). Thus, this subrule will be applied in such a manner as to phase-in the full amount

of an earlier increase over more than one subsequent update. For example, if, at one annual update, a laborshed wage would increase by three dollars per hour over the current qualifying wage threshold, the authority will limit the amount of the increase in that first annual update to one dollar. But if, at the second annual update, the laborshed wage calculation performed pursuant to 261—Chapter 173 remains what it was at the time of the first annual update, then the authority will apply up to one additional dollar at the second annual update, and so on.

**174.2(4) Effective date and applicability.** The laborshed-based qualifying wage thresholds adopted in 2012 Iowa Acts, House File 2473, are effective beginning on July 1, 2012, and the authority will apply the provisions of this rule to all qualifying wage threshold calculations made or updated on or after that date.

ITEM 23. Amend rule 261—174.5(15G,83GA,SF344), introductory paragraph, as follows:

**261—174.5(15G,83GA,SF344 15) Qualifying wage threshold requirements—on or after July 1, 2009, and on or before June 30, 2012.**

ITEM 24. Amend subrule 174.5(4) as follows:

**174.5(4)** Higher wage threshold applies if multiple programs are used in a project. Notwithstanding the qualifying wage threshold requirements for each program, if a business is a recipient of financial assistance from more than one program administered by the ~~department~~ authority and the qualifying wage thresholds are not the same, the business shall be required to pay the higher qualifying wage for the project.

ITEM 25. Rescind rule 261—174.6(15E,15G,83GA,SF344) and adopt the following new rule in lieu thereof:

**261—174.6(15) Qualifying wage threshold requirements—effective on or after July 1, 2012.** 2012 Iowa Acts, House File 2473, (“the Act”) became effective on July 1, 2012. Among other things, the Act changed the qualifying wage thresholds applicable to HQJP and the EZ program. As of July 1, 2012, the qualifying wage thresholds described in this rule shall be in effect.

**174.6(1) Enterprise zone (EZ) program.** The qualifying wage threshold requirement applicable to the EZ program is 90 percent of the laborshed wage.

**174.6(2) High quality jobs program (HQJP).** The qualifying wage threshold requirement applicable to HQJP is 120 percent of the laborshed wage.

**174.6(3) HQJP projects in distressed areas.**

a. Notwithstanding subrule 174.6(2), the qualifying wage threshold requirement applicable to an HQJP project may be lowered to 100 percent of the laborshed wage if the eligible business is located in an economically distressed area.

b. For purposes of this subrule, “economically distressed area” means a county that ranks among the bottom 25 of all Iowa counties, as measured by either the average monthly unemployment level for the most recent 12-month period or the average annualized unemployment level for the most recent five-year period.

c. The authority will update the list of economically distressed areas according to the same schedule as the qualifying wage thresholds are updated pursuant to subrule 174.2(1) and will apply the provisions of subrule 174.2(2) to the list of economically distressed areas in the same manner.

**174.6(4) Economic development set aside (EDSA) program.** The qualifying wage threshold requirement applicable to the EDSA program is 90 percent of the laborshed wage.

ITEM 26. Amend rule 261—174.7(15,15G,83GA,SF344) as follows:

**261—174.7(15,15G,83GA,SF344) Job obligations.** Jobs that will be created or retained as a result of a project’s receiving state or federal financial assistance, project completion assistance, or tax credit benefits incentives from the ~~department~~ authority shall meet the qualifying wage threshold requirements. Jobs that do not meet the qualifying wage threshold requirements will not be counted toward a business’s job creation or job retention obligations ~~outlined~~ contained in the contract between



the ~~department~~ authority and the business. A business’s job obligations shall include the business’s base employment level and the number of new jobs required to be created above the base employment level.

ITEM 27. Amend rule 261—174.9(15,15G,83GA,SF344) as follows:

**261—174.9(15,15G,83GA,SF344) Sufficient benefits requirement—on or after July 1, 2009.**

**174.9(1) Requirement.** To be eligible to receive state financial assistance, project completion assistance, or tax ~~credit~~ ~~benefits~~ incentives, applicants shall offer sufficient benefits to each FTE permanent position. The term “~~Sufficient sufficient~~ benefits” and “~~sufficient benefits credit~~” are defined in rule 261—173.2(15,15G,83GA,SF344). The board may consider alternative benefits packages or may adjust the requirement described in this rule to reflect the most current benefits package typically offered by employers.

**174.9(2) Options.** An employer may select meeting one of the following options ~~to meet~~ will be found to meet the sufficient benefits requirement:

| Option 1<br>80% Single Coverage   | Option 2<br>50% Family Coverage   | Option 3<br>Monetary Equivalent  |   |
|---|---|--|---|
| Pay 80% of premium costs for a standard medical and dental plan, single coverage.<br><br>\$750 maximum deductible | Pay 50% of premium costs for a standard medical and dental plan, family coverage.<br><br>\$1,500 maximum deductible | Provide medical and pay the monetary equivalent of Option 1 or Option 2 in supplemental employee benefits. | Benefits Counted Toward Monetary Equivalent <ul style="list-style-type: none"> <li>● Medical coverage</li> <li>● Dental coverage</li> <li>● Vision insurance</li> <li>● Life insurance</li> <li>● Pension</li> <li>● 401(k) (company’s average contribution)</li> <li>● Short-/long-term disability insurance</li> <li>● Child care services</li> <li>● Other nonwage compensation</li> </ul> |

ITEM 28. Amend subrule 174.10(1) as follows:

**174.10(1) Capital investment.** The ~~department~~ authority reports on the amount of capital investment involved with funded projects. This rule lists the categories of expenditures that are included when the ~~department~~ authority determines the amount of capital investment associated with a project.

ITEM 29. Amend **261—Chapter 174**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapters 15, ~~15E~~ and ~~15G~~ as amended by 2009 2012 Iowa Acts, Senate House File 344 2473, 15E and 15G, subchapter I.

ITEM 30. Amend rule 261—175.1(15,83GA,SF344) as follows:

**261—175.1(15,83GA,SF344) Applicability.** This chapter shall apply to the programs listed in rule 261—173.1(15,15G,83GA,SF344) and to other state and federal programs identified in this chapter. This chapter describes the application review and approval procedures and the role of the advisory groups or board committees and identifies the final decision maker for each program.

ITEM 31. Amend rule 261—175.2(15,83GA,SF344), introductory paragraph, as follows:

**261—175.2(15,83GA,SF344) Application procedures for programs administered by the authority.**

ITEM 32. Rescind subrule 175.2(1) and adopt the following **new** subrule in lieu thereof:

**175.2(1) Financial assistance programs.** The authority administers a number of programs that provide direct financial assistance of various types for approved projects. This includes ongoing administration of agreements executed under certain prior programs, such as the grow Iowa values fund and the power fund, that have been repealed. The authority will receive applications for direct assistance under current programs and will continue to receive amendment requests for contracts entered into

under former programs. Beginning on July 1, 2012, most new applications for direct assistance will be received as requests for project completion assistance under HQJP.

ITEM 33. Amend rule 261—175.3(15,83GA,SF344), introductory paragraph, as follows:

**261—175.3(15,83GA,SF344) Standard program requirements.** In addition to the eligibility requirements of the individual programs applicable to the financial assistance sought, an applicant shall be subject to all of the following requirements which the authority shall also incorporate into each agreement as continuing obligations and conditions for the receipt of incentives or assistance under the program:

ITEM 34. Amend subrule 175.3(2) as follows:

**175.3(2) Sustained operations.** The applicant shall ~~not have closed or substantially reduced operations in one area of this state and relocated substantially the same operations in a community in another area of this state. However, this subrule shall not be construed to prohibit a business from expanding its operations in a community if existing operations of a similar nature in this state are not closed or substantially reduced~~ comply with the provisions of 261—subrule 68.2(2) regarding relocations within the state and reductions in operations.

ITEM 35. Amend rule 261—175.4(15,83GA,SF344), introductory paragraph, as follows:

**261—175.4(15,83GA,SF344) Review and approval of applications.**

ITEM 36. Rescind subrule 175.4(4) and adopt the following new subrule in lieu thereof:

**175.4(4) Application approval procedures.**

*a. Approval.* Application approval procedures must comply with the statutory requirements for each individual program or funding source and the applicable administrative rules. In general, the approval process begins with review of a completed application by authority staff. After review by staff, the application may be sent to a committee for further recommendation followed by final action on the application by the board or by the director, as the case may be. The director may take action on any application or activity that is not specifically identified as requiring board action. The authority's various programs and the application procedures are described in paragraph "c," which contains the applicable recommending and approving entities by funding source and program.

*b. Key to table.*

ACE – The accelerated career education program job credits authorized under Iowa Code chapter 260G.

ASSISTIVE – The assistive device tax credits authorized in Iowa Code section 422.33.

BRN – The brownfield redevelopment advisory council established in Iowa Code section 15.294.

BROWN – Redevelopment tax credits for brownfield and grayfield sites and the brownfield redevelopment fund as established in Iowa Code chapter 15.

CDBG – Federal community development block grant funded programs.

DDC – Due diligence committee organized by the board pursuant to 261—Chapter 1.

EDSA – The economic development set aside component of the CDBG program established in 261—Chapter 23.

ETAP – The export trade assistance program established in 261—Chapter 72.

EZ – Enterprise zone program as established in Iowa Code chapter 15E, including both the business and housing development tax credits.

HQJP – High quality jobs program as established in Iowa Code chapter 15, including both tax incentives and project completion assistance.

INNOVATION – Programs related to innovation, commercialization, and targeted industries development, including the programs described in Iowa Code section 15.411 and the program rules in 261—Part V.

NSP – Neighborhood stabilization program as established in 261—Chapter 27.

TCC – Technology commercialization committee organized by the board pursuant to 261—Chapter

1.

TJWTC – Targeted jobs withholding tax credit program for pilot project cities established in Iowa Code section 403.19A.

TSB – Targeted small business advisory council established in Iowa Code section 15.247(8).

TSB LOAN – The targeted small business financial assistance program established in Iowa Code section 15.247.

c. *Recommendation and approval entities for state and federal programs.* The application approval process for applications for tax incentives, project completion assistance, other financial assistance, or other benefits under the authority’s various programs is as follows:

| PROGRAM       | STATE/FEDERAL | RECOMMENDATION BY | FINAL DECISION BY |
|---------------|---------------|-------------------|-------------------|
| HQJP          | State         | DDC               | Board             |
| EZ (Business) | State         | DDC               | Board             |
| EZ (Housing)  | State         |                   | Director          |
| INNOVATION    | State         | TCC               | Board             |
| ASSISTIVE     | State         |                   | Director          |
| EDSA          | Federal       | DDC               | Board             |
| CDBG          | Federal       |                   | Director          |
| NSP           | Federal       |                   | Director          |
| BROWN         | State         | BRN               | Director          |
| TSB LOAN      | State         | TSB               | Director          |
| ETAP          | State         |                   | Director          |
| ACE           | State         |                   | Director          |
| TJWTC         | State         |                   | Director          |

ITEM 37. Rescind rule 261—175.5(15,15G,83GA,SF344) and adopt the following **new** rule in lieu thereof:

**261—175.5(15) Local match requirements for project awards.**

**175.5(1) Requirements.** An applicant seeking tax incentives or assistance under one of the programs subject to this chapter shall include a local match for the project. The amount of the local match shall be as follows:

a. For projects seeking direct assistance under any program except EDSA, the amount of the local match shall be 20 percent of the amount of direct financial assistance requested. For projects seeking direct financial assistance under EDSA, the amount of the local match shall be 10 percent of the amount requested.

b. For projects seeking tax incentives, the local match shall be one of the following:

(1) A tax abatement or exemption for the project as provided under Iowa Code chapter 427B. The amount of such a local abatement or exemption will be determined according to the period of partial exemption described in Iowa Code section 427B.3.

(2) Any other acceptable form of local match, as described in this rule, provided the amount of such match is equal to or greater than the value of the tax abatement or exemption described in subparagraph (1).

c. For projects seeking both direct assistance and tax incentives, the amount of local match will be based on the amount required for the direct assistance.

**175.5(2) Entities that may provide a local match.** When a local match is required, the match may come from a local government entity, a local development organization or chamber of commerce, a utility company, a local nonprofit entity such as a foundation, institution, or endowment, or a council of government.

**175.5(3) Acceptable forms of local match.** The following types of contributions to a project qualify as acceptable forms of local match:

a. Cash contributions such as grants, loans, forgivable loans, gifts, and endowments.

- b. Revolving loan funds provided that if a revolving loan fund is the only form of local match the interest rate and term match the terms of the direct assistance to be provided by the authority.
- c. Tax abatement or exemption.
- d. Industrial property tax exemption.
- e. Tax increment financing, including rebates.
- f. Bond financing, including general obligation bonds, tax increment financing bonds, and revenue bonds.
- g. Direct investment in infrastructure that supports a business such as water and sewer extensions, gas and electric service, or street improvements.
- h. Differentials in space or building costs such as subsidized building acquisitions or lease costs.
- i. Differentials in rates provided by service providers, including water and sewer service, electric service, and gas or other services.

**175.5(4) Exception.** If a project is seeking only tax incentives and the project will not increase local tax revenues, then a local match is not required.

ITEM 38. Amend **261—Chapter 175**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapters 15, ~~15E and 15G~~ as amended by 2009 2012 Iowa Acts, ~~Senate~~ House File 344 2473, 15E and 15G, subchapter I.

ITEM 39. Strike “department” wherever it appears in subrules **187.2(2)**, **187.3(3)**, **187.4(3)**, **187.5(1)**, **187.5(2)** and **187.5(4)**, except in the phrase “department of revenue,” and insert “authority” in lieu thereof.

ITEM 40. Amend subrule 187.3(4) as follows:

**187.3(4)** The following table describes, by program, the length of the project completion period and the maintenance period:

| Program  | Project Completion Period | Maintenance Period      | Total Contract Length |
|--|---------------------------|-------------------------|-----------------------|
| Grow Iowa Values Financial Assistance Program: <u>(all components)</u> | <u>3</u> years            | <u>2</u> more years     | <u>5</u> years        |
| <del>130% wage component</del>   | <del>3</del> years        | <del>2</del> more years | <del>5</del> years    |
| <del>100% wage component</del>   | <del>3</del> years        | <del>2</del> more years | <del>5</del> years    |
| <del>Entrepreneurial component</del>                                   | <del>3</del> years        | <del>2</del> more years | <del>5</del> years    |
| <del>Infrastructure component</del>                                    | <del>3</del> years        | <del>2</del> more years | <del>5</del> years    |
| <del>Value-added agriculture component</del>                           | <del>3</del> years        | <del>2</del> more years | <del>5</del> years    |
| <del>Disaster recovery component</del>                                 | <del>3</del> years        | <del>2</del> more years | <del>5</del> years    |
| High Quality Jobs Program  | 3 years                   | 2 more years            | 5 years               |
| Enterprise Zone Program  | 3 years                   | 2 more years            | 5 years               |

ITEM 41. Adopt the following **new** subrule 187.3(5):

**187.3(5)** Notwithstanding the standard project completion period and maintenance period lengths described in subrule 187.3(4), the authority may vary the length of the periods provided that the project completion period will not be less than three years and the total contract length will not be less than five years.

ITEM 42. Rescind subrule 187.4(2) and adopt the following **new** subrule in lieu thereof:

**187.4(2) Contract amendments.**

a. *General.* In general, the amendment process for both awards and contracts mirrors the application process. That is, the same entity that recommended the initial application will also recommend the amendment, and the same entity that had final approval of the initial application will have final approval of the amendment. As with awards, contract amendments must comply with the statutory requirements for each individual program or funding source and the applicable administrative

rules. In general, the amendment process begins with review of an amendment request by authority staff. After review by staff, the amendment may be sent to a committee for further recommendation followed by final action on the amendment by the board or by the director, as the case may be. The director may take action on any amendment that is not specifically identified as requiring board action. The authority’s various programs and the amendment procedures are described in paragraph 187.4(2)“c,” which contains the applicable recommending and approving entities by funding source and program.

*b. Key to table.*

ACE – The accelerated career education program job credits authorized under Iowa Code chapter 260G.

ASSISTIVE – The assistive device tax credits authorized in Iowa Code section 422.33.

BRN – The brownfield redevelopment advisory council established in Iowa Code section 15.294.

BROWN – Redevelopment tax credits for brownfield and grayfield sites and the brownfield redevelopment fund as established in Iowa Code chapter 15.

CDBG – Federal community development block grant funded programs.

DDC – Due diligence committee organized by the board pursuant to 261—Chapter 1.

EDSA – The economic development set aside component of the CDBG program established in 261—Chapter 23.

ETAP – The export trade assistance program established in 261—Chapter 72.

EZ – Enterprise zone program as established in Iowa Code chapter 15E, including both the business and housing development tax credits.

FILM – The film and video project promotion program tax credits available under the now repealed Iowa Code section 15.393.

GIVF – The grow Iowa values fund and financial assistance program established pursuant to the now repealed Iowa Code chapter 15G, including all prior versions and funding sources of the program.

HQJP – High quality jobs program, as established in Iowa Code chapter 15, including both tax incentives and project completion assistance.

INNOVATION – Programs related to innovation, commercialization, and targeted industries development, including the programs described in Iowa Code section 15.411 and the program rules in 261—Part V.

LCG – Loan and credit guarantee program as established in the now repealed Iowa Code chapter 15E, division XX.

NSP – Neighborhood stabilization program as established in 261—Chapter 27.

TCC – Technology commercialization committee organized by the board pursuant to 261—Chapter 1.

TJWTC – Targeted jobs withholding tax credit program for pilot project cities established in Iowa Code section 403.19A.

TSB – Targeted small business advisory council established in Iowa Code section 15.247(8).

TSB LOAN – The targeted small business financial assistance program established in Iowa Code section 15.247.

*c. Recommendation and approval entities for state and federal programs.* The contract amendment process for tax incentives, project completion assistance, other financial assistance, or other benefits under the authority’s various programs is as follows:

| PROGRAM       | STATE/FEDERAL | RECOMMENDATION BY | FINAL DECISION BY |
|---------------|---------------|-------------------|-------------------|
| HQJP          | State         | DDC               | Board             |
| GIVF          | State         | DDC               | Board             |
| EZ (Business) | State         | DDC               | Board             |
| EZ (Housing)  | State         |                   | Director          |
| INNOVATION    | State         | TCC               | Board             |
| LCG           | State         | DDC               | Board             |
| FILM          | State         |                   | Director          |

|           |         |     |          |
|-----------|---------|-----|----------|
| ASSISTIVE | State   |     | Director |
| EDSA      | Federal | DDC | Board    |
| CDBG      | Federal |     | Director |
| NSP       | Federal |     | Director |
| HOME      | Federal |     | Director |
| BROWN     | State   | BRN | Director |
| TSB LOAN  | State   | TSB | Director |
| ETAP      | State   |     | Director |
| ACE       | State   |     | Director |
| TJWTC     | State   |     | Director |

*d. Exception.* Notwithstanding paragraph 187.4(2)“c,” the director may approve contract amendments for the targeted industries internship program consistent with 2011 Iowa Code Supplement section 15.106C without board approval.

ITEM 43. Rescind subrule 187.5(3) and adopt the following **new** subrule in lieu thereof:

**187.5(3) Authority actions upon default—direct financial assistance programs.**

*a.* The authority will take prompt, appropriate, and aggressive debt collection action to recover any funds misspent by recipients.

*b.* If the authority determines that the recipient is in default, the authority may seek recovery of all program funds plus interest, assess penalties, negotiate alternative repayment schedules, suspend or discontinue collection efforts, and take other appropriate action as the board deems necessary.

*c.* Determination of appropriate repayment plan. Upon determination that the recipient has not met the contract obligations, the authority will notify the recipient of the amount to be repaid to the authority. If the enforcement of such penalties would endanger the viability of the recipient, the board may extend the term of the loan to ensure payback, stability, and survival of the recipient. In certain instances, additional flexibility in a repayment plan may be necessary to ensure payback, stability, and survival of the recipient. Flexibility in a repayment plan may include, but is not limited to, deferring principal payments or collecting monthly payments below the amortized amount. In these cases, review and approval by the board, committee or director, as applicable, are necessary before the authority may finalize the repayment plan with the recipient.

*d.* The authority shall attempt to collect the amount owed. Negotiated settlements, write-offs or discontinuance of collection efforts is subject to final review and approval by the board, committee or director, as applicable, and described in paragraph 187.5(3)“f.”

*e.* If the authority or board refers defaulted contracts to outside counsel for collection, then the terms of the agreement between the authority and the outside counsel regarding scope of counsel’s authorization to accept settlements shall apply. No additional approvals by the board, committee or director shall be required.

*f.* The table below describes the approval procedures that shall be followed for all negotiated settlements, write-offs or discontinuance of collection efforts for state direct financial assistance programs, federal programs, and other programs administered by the authority.

| PROGRAM       | STATE/FEDERAL | RECOMMENDATION BY | FINAL DECISION BY |
|---------------|---------------|-------------------|-------------------|
| HQJP          | State         | DDC               | Board             |
| GIVF          | State         | DDC               | Board             |
| EZ (Business) | State         | DDC               | Board             |
| EZ (Housing)  | State         |                   | Director          |
| INNOVATION    | State         | TCC               | Board             |
| LCG           | State         | DDC               | Board             |
| FILM          | State         |                   | Director          |

|           |         |     |          |
|-----------|---------|-----|----------|
| ASSISTIVE | State   |     | Director |
| EDSA      | Federal | DDC | Board    |
| CDBG      | Federal |     | Director |
| NSP       | Federal |     | Director |
| HOME      | Federal |     | Director |
| BROWN     | State   | BRN | Director |
| TSB LOAN  | State   | TSB | Director |
| ETAP      | State   |     | Director |
| ACE       | State   |     | Director |
| TJWTC     | State   |     | Director |

ITEM 44. Amend **261—Chapter 187**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapters 15, ~~15E and 15G~~ as amended by ~~2009~~ 2012 Iowa Acts, Senate House File 344 2473, 15E and 15G, subchapter I.

ITEM 45. Strike “department” wherever it appears in rules **261—188.2(15)**, **261—188.4(15)**, and **261—188.5(15)** and insert “authority” in lieu thereof.

ITEM 46. Adopt the following new rule 261—188.6(15):

**261—188.6(15) Wage determination for contract compliance purposes.**

**188.6(1) Applicability.** This rule shall apply for purposes of administering contracts that require a determination as to the wage-based compensation provided to employees.

**188.6(2) Definition.** As used in the authority’s contracts, unless the context otherwise requires, “wage” shall mean monetary compensation, represented in terms of an hourly rate, paid by an employer to an employee for work or services provided, typically on a weekly or biweekly basis.

**188.6(3) Determination of wages for contract administration purposes.** When determining wages for contract administration purposes, the wage will include only the regular hourly rate that serves as the base level of compensation. The wage will not include non-regular forms of compensation such as bonuses, unusual overtime pay, commissions, stock options, pensions, retirement or death benefits, unemployment benefits, life or other insurance, or other fringe benefits.

ITEM 47. Amend **261—Chapter 188**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapters 15 ~~as amended by 2012 Iowa Acts, House File 2473~~, 15E and 15G, subchapter I.

ITEM 48. Amend rule 261—189.1(15) as follows:

**261—189.1(15) Annual reporting by businesses required (for period ending June 30).** Recipients shall report annually to the ~~department~~ authority, in form and content acceptable to the ~~department~~ authority, about the status of the funded project. ~~The report~~ Such reports shall include, but not be limited to, data about base employment, qualifying wages, benefits, project costs, capital investment, and compliance with the contract.

ITEM 49. Amend rule 261—189.2(15) as follows:

**261—189.2(15) January 31 report by ~~DED~~ authority to legislature.** ~~DED’s~~ The authority’s legal and compliance ~~group team~~ will use the data it collects from businesses to prepare a report on the programs covered in 261—Chapter 173 to be included in ~~DED’s consolidated annual report, which is due to the legislature by January 31 each year pursuant to Iowa Code section 15.104(9) as amended by 2009 Iowa Acts, Senate File 344, section 20~~ the authority’s annual report to the general assembly.

ITEM 50. Amend **261—Chapter 189**, implementation sentence, as follows:

These rules are intended to implement 2011 Iowa Code Supplement chapters 15, ~~15E and 15G~~ as amended by ~~2009~~ 2012 Iowa Acts, Senate House File 344 2473, 15E and 15G, subchapter I.