

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Notice of Intended Action**

**Proposing rule making related to high quality jobs program  
and providing an opportunity for public comment**

The Economic Development Authority (IEDA) hereby proposes to amend Chapter 68, “High Quality Jobs Program (HQJP),” Chapter 173, “Standard Definitions,” Chapter 174, “Wage, Benefit, and Investment Requirements,” Chapter 187, “Contracting,” and Chapter 188, “Contract Compliance and Job Counting,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 15.106A.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 366, and 2021 Iowa Acts, Senate File 619.

*Purpose and Summary*

The proposed amendments to Chapter 68 reflect legislative changes to the High Quality Jobs Program in 2021 Iowa Acts, Senate File 366, and 2021 Iowa Acts, Senate File 619. Additionally, the amendments would eliminate references to processes for claiming tax credits and incorporate standard definitions from Chapter 173. Proposed amendments to Chapter 173 clarify the applicability of that chapter while preserving references in other rule chapters that apply to the High Quality Jobs Program. An amendment in Chapter 174 would change the date that qualifying wage thresholds are updated each year from July 1 to September 1. Other amendments in Chapters 187 and 188 would provide clarifications and align the rules with current administration of the program.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the IEDA no later than 4:30 p.m. on December 7, 2021. Comments should be directed to:

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*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 261—68.1(15) as follows:

**261—68.1(15) Administrative procedures and definitions.**

**68.1(1) *Administrative procedures.*** The HQJP is subject to the requirements of the authority’s rules located in 261—Part VII, additional application requirements and procedures, and 261—Part VIII, legal and compliance. Part VII and Part VIII include ~~standard definitions~~; standard program requirements; wage, benefit and investment requirements; application review and approval procedures; contracting; contract compliance and job counting; and annual reporting requirements. The standard definitions in 261—Chapter 173 in Part VII have been incorporated as applicable in subrule 68.1(2) and are not otherwise applicable to the HQJP.

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

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

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

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

“Base employment level” means the number of full-time equivalent positions at a business, as established by the authority and a business using the business’s payroll records, as of the date a business applies for tax incentives or project completion assistance. The number of jobs the business has pledged to create shall be in addition to the base employment level. The number of jobs the business has pledged to retain are included as all or a part of the base employment level. If the project is a modernization project, the job obligations will not include created or retained jobs. The business will be required to maintain the base employment level.

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

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

“Brownfield site” means the same as defined in Iowa Code section 15.291.

“Business” means a sole proprietorship, partnership, corporation, or other business entity organized for profit under the laws of the state of Iowa or another state, under federal statutes, or under the laws of another country.

“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.

“Created job” means a new, permanent, full-time equivalent (FTE) position added to a business’s payroll in excess of the base employment level.

“Department” means the Iowa department of revenue.

“Economically distressed area” means a county meeting the requirements of a distressed area pursuant to rule 261—174.6(15).

“Eligible business” means a business meeting the conditions of Iowa Code section 15.329.

“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).

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

• The business receiving the 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 authority as conditions of the 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 authority, in form and content and as frequently as required by the 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 authority, or its authorized representatives, to access the third-party provider’s records related to the funded project.

• The business receiving the tax incentives or project completion assistance agrees to be contractually liable to the authority for the performance or nonperformance of the third-party provider.

“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 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 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 five-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.

“Grayfield site” means the same as defined in Iowa Code section 15.291.

“Greenfield site” means a site that does not meet the definition of a brownfield site or grayfield site. A project proposed at a site located on previously undeveloped or agricultural land shall be presumed to be a greenfield site.

“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.

“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. The laborshed wage applicable to the project shall be the laborshed wage for 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 Iowa Code section 15.327. 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 (not to exceed 30 months) made from obligated but unexpended moneys.

“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. 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.

“Modernization project” means a project that will result in increased skills and wages for current employees and that does not involve created or retained jobs. The business must maintain the base employment level.

“Program” means the high quality jobs program created pursuant to Iowa Code chapter 15, part 13.

“Project” means the same as defined in rule 261—173.2(15) an activity or set of activities directly related to the start-up, location, modernization, or expansion of a business, and proposed in an application by a business, that are consistent with the goals of the program.

“Project completion assistance” means the same as defined in rule 261—173.2(15) 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 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. Rule 261—187.3(15) provides standard durations for project completion and maintenance periods.

“Project completion period” means the period of time between the award date and the project completion date.

“Qualifying wage threshold” means the laborshed wage for an eligible business.

“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. “Retail business” includes any business engaged in selling tangible personal property or taxable services online.

“Retained job” means a full-time equivalent permanent position that is included in the base employment level 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 business 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.

ITEM 2. Amend rule 261—68.2(15) as follows:

**261—68.2(15) Eligibility requirements.**

**68.2(1)** No change.

**68.2(2)** *Relocations and reductions in operations.*

*a.* The business shall not 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.

(1) 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.

(2) Pursuant to 2021 Iowa Acts, Senate File 619, the authority shall not presume that a reduction in operations is a reduction in operations while simultaneously applying for assistance as described in subparagraph 68.2(2) “b”(1) with regard to a business that submits an application on or before June 30, 2022, if the business demonstrates to the satisfaction of the authority that the reduction in operations occurred after March 1, 2020, and that the reduction in operations was due to the COVID-19 pandemic. The authority shall consider whether the benefit of the project proposed by a business described in this subparagraph outweighs any negative impact related to the business’s reduction in operations. A business described in this subparagraph shall remain subject to all other eligibility requirements of the program.

*c.* This subrule 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.

**68.2(3)** ~~No retail~~ *Retail or service businesses.* The business shall not be a retail ~~or service~~ business. ~~For purposes of this subrule, The business shall not be a service business is a business providing services~~

~~to a local consumer market which does not have unless a significant proportion of its sales coming from, as determined by the authority, are outside the this state.~~

**68.2(4)** No change.

**68.2(5)** *Determination of sufficient benefits.* The business shall ~~provide~~ offer a sufficient package of benefits to each full-time employee holding a created or retained job included in the business's base employment level and to each full-time employee at the project location until the maintenance period completion date. ~~The business shall offer a sufficient benefits package to its employees as defined in 261—Chapter 173.~~ The benefits package provided shall meet the criteria established by the board. The board shall periodically approve such criteria to reflect the most current benefits package typically offered by employers. The criteria established by the board may include, but not be limited to, premium percentages to be paid by the business, deductible requirements, and other such criteria as determined necessary to the evaluation of benefits offered by a business.

**68.2(6) to 68.2(8)** No change.

**68.2(9)** *Other benefits.* A business may seek benefits and assistance for its project from other applicable federal, state, and local programs in addition to those provided in this program. ~~However, a business which has received assistance for its project from the wage-benefit tax credit program or the enterprise-zone program shall not be eligible for tax incentives and assistance under this program. A business which has received assistance for its project from the new jobs and income program or the new capital investment program shall not be eligible for tax incentives and assistance under this program for the same project. However, the business may receive tax incentives and assistance under this program for subsequent projects.~~

**68.2(10)** No change.

ITEM 3. Amend paragraph **68.3(1)“a”** as follows:

*a.* 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.

(1) Any one of the following may indicate that a project has been initiated:

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.

(2) The purchase of land or signing an option to purchase land or earthmoving 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.

ITEM 4. Amend rule 261—68.4(15) as follows:

#### **261—68.4(15) Tax incentives.**

**68.4(1)** *Sales and use tax refund.* Pursuant to Iowa Code section 15.331A, the approved business may 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 tangible personal property,~~ 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. Filing a claim.* To receive the refund, the approved business shall file a claim with the department ~~of revenue as follows:~~ pursuant to the department's applicable rules.

~~(1) The contractor or subcontractor shall state under oath, on forms provided by the department of revenue, the amount of sales or goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services upon which sales or use tax has been paid prior to the project completion, and shall file the forms with the approved business before final settlement is made.~~

~~(2) The approved business shall, not more than 12 months following project completion, make application to the department of revenue for any refund of the amount of the sales and use taxes paid pursuant to Iowa Code chapter 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services.~~

~~(3) The eligible business shall inform the department of revenue in writing within two weeks of project completion.~~

~~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 of revenue 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 of revenue will validate the refund amount and 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 of revenue 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. An approved business that receives a refund or a tax credit in one fiscal year shall not be considered in a succeeding fiscal year. No business shall receive more than \$500,000 in refunds or credits pursuant to this paragraph.~~

~~**68.4(2) Corporate tax credit for certain sales taxes paid by third-party Third-party developer tax credit.** 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~~ tangible personal property, 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 of revenue as follows: pursuant to the department's applicable rules.~~

~~(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 of revenue.~~

~~(3) The department of revenue 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 of revenue 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 of revenue 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 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 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 approved by the authority for businesses under the high quality jobs program and enterprise zone program 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. An approved business that receives a refund or a tax credit in one fiscal year shall not be considered in a succeeding fiscal year. No business shall receive more than \$500,000 in refunds or credits pursuant to this paragraph.~~

**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 project 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 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. The tax credit ~~shall be earned~~ can be claimed when the qualifying asset is placed in service.

~~(1) Five-year amortization period.~~ The tax credit shall be amortized over a five-year period. 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 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. The approved business shall not claim a tax credit in excess of the amount specified in a contract entered into with the authority.

~~(2) Flow-through of tax credits.~~ If the business is a partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 or 501A and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under Iowa Code chapter 501 or 501A and filing as a partnership for federal tax purposes, or estate or trust.

~~(3) Seven-year carryforward.~~ 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 means all of the following:



(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1, ~~subsection 1, paragraphs “e” and “j,” 427A.1(1) “e” and “j,”~~ purchased for use in the operation of the approved business.

(2) The purchase price of real property and any buildings and structures located on the real property.

(3) The cost of improvements made to real property which is used in the operation of the approved business.

(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 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.

~~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(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.

*a. Claiming the tax credit.* ~~The tax credit shall be earned~~ can be claimed when the qualifying asset is placed in service. The tax credit shall be amortized equally over a five-year period which the authority will, in consultation with the eligible business, define. The five-year amortization period shall be specified in 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. The approved business shall not claim a tax credit in excess of the amount specified in a contract entered into with the authority.

*b. Investment qualifying for the tax credit.* For purposes of this subrule, new investment means all of the following:

(1) The cost of machinery and equipment, as defined in Iowa Code section 427A.1, ~~subsection 1, paragraphs “e” and “j,” 427A.1(1) “e” and “j,”~~ purchased for use in the operation of the approved business.

(2) The purchase price of real property and any buildings and structures located on the real property.

(3) The cost of improvements made to real property which is used in the operation of the approved business.

(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 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.

~~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. Calculation.* The credit equals the sum of the following:

~~(1) Six and one-half percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities.~~

~~(2) Six and one-half percent of the basic research payments determined under Section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state’s apportioned share of the qualifying expenditures for increasing research activities.~~

The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures.

*b. Alternate calculation.* In lieu of the credit amount computed in subparagraph 68.4(6) "a"(1), the approved business may elect to compute the credit amount for qualified research expenses incurred in Iowa in a manner consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used for the taxpayer's federal income tax. The election made under subrule 68.4(6) is for the tax year and the taxpayer may use either the method outlined in paragraph "a" or in this paragraph for any subsequent year.

For purposes of this alternate credit computation method, the credit percentages applicable to the qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code are 1.65 percent, 2.20 percent, and 2.75 percent, respectively.

*c. Additional research activities credit.* The credit allowed in this subrule is in addition to the credit authorized in Iowa Code sections 422.10 and 422.33(5). However, if the alternative credit computation method is used in Iowa Code section 422.10 or 422.33(5), the credit allowed in this subrule shall also be computed using that method.

*d. Flow-through of tax credits.* If the eligible business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, S corporation, limited liability company, or estate or trust.

*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 same as defined in Iowa Code section 15.335.

*f. Refunds.* Any credit in excess of the tax liability for the taxable year shall be refunded with interest computed under Iowa Code section 422.25. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on its final, completed return credited to the tax liability for the following year.

*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 the amount specified in Iowa Code section 15.335.

**68.4(7) Maximum tax incentives available.** Tax incentives 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~~ The business is required to maintain the base employment level, but no high quality jobs are created or retained ~~but~~ and 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.~~

- (1) Less than \$100,000 in qualifying investment.
  1. Investment tax credit or insurance premium tax credit of up to 1 percent.
  2. Reserved.
- (2) \$100,000 to \$499,999 in qualifying investment.
  1. Investment tax credit or insurance premium tax credit of up to 1 percent.

2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by~~ third-party developer tax credit, or both, if applicable.
  - (3) \$500,000 or more in qualifying investment.
    1. Investment tax credit or insurance premium tax credit of up to 1 percent.
    2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by~~ third-party developer tax credit, or both, if applicable.
    3. Research activities credit.
      - b. 1 to 5 high quality jobs are created or retained.
        - (1) Less than \$100,000 in qualifying investment.
          1. Investment tax credit or insurance premium tax credit of up to 2 percent.
          2. Reserved.
        - (2) \$100,000 to \$499,999 in qualifying investment.
          1. Investment tax credit or insurance premium tax credit of up to 2 percent.
          2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by~~ third-party developer tax credit, or both, if applicable.
      - (3) \$500,000 or more in qualifying investment.
        1. Investment tax credit or insurance premium tax credit of up to 2 percent.
        2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by~~ third-party developer tax credit, or both, if applicable.
    - c. 6 to 10 high quality jobs are created or retained.
      - (1) Less than \$100,000 in qualifying investment.
        1. Investment tax credit or insurance premium tax credit of up to 3 percent.
        2. Reserved.
      - (2) \$100,000 to \$499,999 in qualifying investment.
        1. Investment tax credit or insurance premium tax credit of up to 3 percent.
        2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by~~ third-party developer tax credit, or both, if applicable.
    - (3) \$500,000 or more in qualifying investment.
      1. Investment tax credit or insurance premium tax credit of up to 3 percent.
      2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by~~ third-party developer tax credit, or both, if applicable.
  - d. 11 to 15 high quality jobs are created or retained.
    - (1) Less than \$100,000 in qualifying investment.
      1. Investment tax credit or insurance premium tax credit of up to 4 percent.
      2. Reserved.
    - (2) \$100,000 to \$499,999 in qualifying investment.
      1. Investment tax credit or insurance premium tax credit of up to 4 percent.
      2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by~~ third-party developer tax credit, or both, if applicable.
  - (3) \$500,000 or more in qualifying investment.
    1. Investment tax credit or insurance premium tax credit of up to 4 percent.
    2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by~~ third-party developer tax credit, or both, if applicable.
- e. 16 to 30 high quality jobs are created or retained.
  - (1) Less than \$100,000 in qualifying investment.
    1. Investment tax credit or insurance premium tax credit of up to 5 percent.
    2. Reserved.
  - (2) \$100,000 to \$499,999 in qualifying investment.
    1. Investment tax credit or insurance premium tax credit of up to 5 percent.

- 2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by third-party~~ developer tax credit, or both, if applicable.
- (3) \$500,000 or more in qualifying investment.
  - 1. Investment tax credit or insurance premium tax credit of up to 4 percent.
  - 2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by third-party~~ developer tax credit, or both, if applicable.
  - 3. Research activities credit.
- f.* 31 to 40 high quality jobs are created or retained.
  - (1) \$10 million or more in qualifying investment.
    - 1. Investment tax credit or insurance premium tax credit of up to 6 percent.
    - 2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by third-party~~ developer tax credit, or both, if applicable.
    - 3. Research activities credit.
    - 4. Value-added property tax exemption.
  - (2) Reserved.
- g.* 41 to 60 high quality jobs are created or retained.
  - (1) \$10 million or more in qualifying investment.
    - 1. Investment tax credit or insurance premium tax credit of up to 7 percent.
    - 2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by third-party~~ developer tax credit, or both, if applicable.
    - 3. Research activities credit.
    - 4. Value-added property tax exemption.
  - (2) Reserved.
- h.* 61 to 80 high quality jobs are created or retained.
  - (1) \$10 million or more in qualifying investment.
    - 1. Investment tax credit or insurance premium tax credit of up to 8 percent.
    - 2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by third-party~~ developer tax credit, or both, if applicable.
    - 3. Research activities credit.
    - 4. Value-added property tax exemption.
  - (2) Reserved.
- i.* 81 to 100 high quality jobs are created or retained.
  - (1) \$10 million or more in qualifying investment.
    - 1. Investment tax credit or insurance premium tax credit of up to 9 percent.
    - 2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by third-party~~ developer tax credit, or both, if applicable.
    - 3. Research activities credit.
    - 4. Value-added property tax exemption.
  - (2) Reserved.
- j.* 101 or more high quality jobs are created or retained.
  - (1) \$10 million or more in qualifying investment.
    - 1. Investment tax credit or insurance premium tax credit of up to 10 percent.
    - 2. Sales and use tax refund or ~~corporate tax credit for certain sales taxes paid by third-party~~ developer tax credit, or both, if applicable.
    - 3. Research activities credit.
    - 4. Value-added property tax exemption.
  - (2) Reserved.

ITEM 5. Rescind subrule **68.5(1)**.

ITEM 6. Renumber subrules **68.5(2)** and **68.5(3)** as **68.5(1)** and **68.5(2)**.

ITEM 7. Amend subrule 173.1(1) as follows:

**173.1(1) Current programs.** ~~Effective July 1, 2014, this~~ This chapter shall apply to the following programs and funding sources as follows:

~~a. Rescinded IAB 6/24/15, effective 7/29/15.~~

~~b. a.~~ EZ (enterprise zone) program (261—Chapter 59). Effective as of July 1, 2014, the EZ program was repealed. See 2014 Iowa Acts, House File 2448. The rules adopted in 261—Chapter 59 continue to apply to agreements entered into prior to that date. All amendments to this chapter made on or after July 1, 2014, shall not apply to agreements entered into under the EZ program prior to that date.

~~e. b.~~ HQJP (high quality jobs program) (261—Chapter 68). This chapter does not apply to the HQJP. Terms applicable to the HQJP are incorporated into 261—Chapter 68. Chapters referencing this subrule in 261—Part VII, additional application requirements and procedures, and 261—Part VIII, legal and compliance, apply to the HQJP as described in 261—subrule 68.1(1).

ITEM 8. Amend subrule 174.2(1) as follows:

**174.2(1) Annual updates.** The authority will update the qualifying wage thresholds described in this chapter annually each fiscal year. The thresholds will take effect on ~~July~~ September 1 of each fiscal year and remain in effect until ~~the end~~ August 31 of the following fiscal year.

ITEM 9. Amend paragraph **187.5(4)“e”** as follows:

~~e.~~ *Extensions.* If an eligible business or eligible housing business fails to meet its requirements under the Act, these rules, or the agreement described in rule 261—187.2(15), the authority, in consultation with the city or county, may elect to grant the business a one-year extension period to meet the requirements. Additional extensions may be granted at the board’s discretion.

ITEM 10. Amend rule 261—188.2(15) as follows:

**261—188.2(15) Contract compliance.** The authority shall provide oversight and contract administration to ensure that funded projects are meeting contract requirements. On-site monitoring will be conducted at the project completion date ~~and~~. On-site or remote monitoring will be conducted at the end of the maintenance period.

ITEM 11. Amend rule 261—188.4(15) as follows:

**261—188.4(15) Business’s employment base.** “Business’s employment base” means the number of jobs that ~~the business and the authority have~~ has established as the job base for a project based on payroll information provided by the business. The number of jobs the business has pledged to create and retain shall be in addition to the business’s employment base.

**188.4(1)** The business’s employment base ~~shall be project specific. In most situations, this will include the number of full-time employees working at the facility receiving funding employed at the project location.~~ It may include the business’s full-time employees as identified by the authority who are employed in this state but are not employed at the project location.

**188.4(2)** and **188.4(3)** No change.

**188.4(4)** The business’s employment base is calculated as part of the application process and is determined before an award is made. The following data points will be verified regarding a business’s employment base:

~~a.~~ The total number of FTEs at the funded facility or at locations identified by the authority as indicated in subrule 188.4(1) (the business’s employment base).

~~b.~~ The average wage of all FTEs.

~~c.~~ The qualifying wage used in the award.

~~d.~~ The benefit value used in the award.

- e. The total number of FTEs at the funded facility that are currently at or above the qualifying wage.
- f. The average wage of the FTEs identified in paragraph “e.”
- g. The total number of FTEs at the funded facility or at locations identified by the authority as indicated in subrule 188.4(1) that are currently at or above the qualifying wage after the benefit value has been added.
- h. The average wage of the FTEs identified in paragraph “g.”

**188.4(5)** Business’s employment base verification. Payroll documents must be collected to calculate and verify the business’s employment base used in each award. The payroll document must include an ID (name, or employer ID number, or social security number) and the hourly rate of pay for all FTEs. If the FTEs at the facility do not typically work 40 hours/week, documentation must be collected from the business outlining what the business considers a full-time workweek and how the business’s interpretation fits within the norms of its industry standards. This interpretation may or may not be accepted by the authority.

ITEM 12. Amend rule 261—188.5(15), introductory paragraph, as follows:

**261—188.5(15) Job counting using base employment analysis.** The authority will count jobs to be created or retained as part of a funded project using a base employment analysis. At the time of application, ~~a baseline employment number~~ the business’s employment base will be established using payroll records pursuant to subrule 188.4(4). ~~The baseline data will include details about~~ authority will determine how many jobs at the project location already meet the qualifying wage thresholds (with and without the value of benefits added to the hourly wage). Changes in ~~these baseline~~ employment numbers as compared to the business’s employment base will be collected and analyzed by the authority as part of the annual reporting process.

ITEM 13. Amend subrule 188.5(1) as follows:

**188.5(1)** A base employment analysis will be performed at the following stages of an award:

- a. At the time of application, before the award is made.
- b. Annually during the reporting cycle.
- c. At the project completion date.
- d. At the ~~end of the~~ maintenance period completion date.

ITEM 14. Amend subrule 188.5(2) as follows:

**188.5(2)** Payroll documents or lists run from payroll systems will be used to calculate and verify the base employment analysis. If a list run from a payroll system is used, the person who submits the documents must, under penalty of perjury, sign the list to verify that it is true and correct. The following items will be calculated and verified as part of the annual status report:

- a. The total number of FTEs at the funded facility or at other Iowa locations as identified at the time of application as of the date of the report.
- b. The average wage of all FTEs.
- c. The qualifying wage used in the award.
- d. The benefit value used in the award.
- e. The total number of FTEs at the funded facility or at other Iowa locations as identified at the time of application that are currently at or above the qualifying wage.
- f. The average wage of the FTEs identified in paragraph “e.”
- g. The total number of FTEs at the funded facility that are currently at or above the qualifying wage after the benefit value has been added.
- h. The average wage of the FTEs identified in paragraph “g.”

ITEM 15. Rescind subrule 188.5(3) and adopt the following **new** subrule in lieu thereof:

**188.5(3)** Following is an example of the format that the authority will use for job counting and tracking using the base employment method.

JOB OBLIGATIONS	Employment Base	Jobs to Be Created	Total Job Obligations
Project Completion Date: Project Maintenance Date:			
Total employment at project location	1	6	8
Average wage of total employment at project location	2		
Qualifying wage (per hr)	3		
Number of jobs at or above qualifying wage	4	7	9
Average wage of jobs at or above qualifying wage	5		

1. The number entered in this cell is the total number of FTEs working at the project location at the time of application. This number must be verified with payroll documents.
2. The number entered in this cell is the average wage of all the FTEs identified in Cell 1. This number must be verified with payroll documents.
3. The number entered in this cell is the applicable qualifying wage threshold used in the award. This data point must include the wage/hr and the percentage in parentheses. [ex: \$15.34/hr (130%)]
4. The number entered in this cell is the number of jobs identified in Cell 1 that meets or exceeds the wage reflected in Cell 3. This number is calculated using the payroll documents. The number of “retained” jobs and retained “other” jobs must be included in this entry. Please note that the number of retained jobs and the number entered here may not match since all jobs existing at the project site may not be considered retained.
5. The number entered in this cell is the average wage of all FTEs identified in Cell 4. This number is calculated using the payroll documents.
6. The number entered in this cell includes the number of “created” jobs, as well as the number of created “other” jobs.
7. The number entered in this cell is the number of “created” jobs in the project.
8. The number entered in this cell is the sum of Cell 1 and Cell 6.
9. The number entered in this cell is the sum of Cell 4 and Cell 7.

ITEM 16. Rescind subrule **188.5(4)**.