Regulatory Analysis

Notice of Intended Action to be published: 261—Chapter 69
"Business Incentives for Growth (BIG) Program"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 15.106A, 15.503, and 15.505

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 15, subchapter II, part 33, and section 15A.1

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

August 26, 2025 9:45 to 10 a.m.	1963 Bell Avenue Des Moines, Iowa Information about joining the hearing via Microsoft Teams is available at opportunityiowa.gov/about/iowa-finance-authority/ifa-red-tape-review

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Iowa Economic Development Authority no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

The Authority proposes to adopt a new Chapter 69 to implement Iowa Code chapter 15, subchapter II, part 33, as enacted by 2025 Iowa Acts, Senate File 657. Chapter 69 describes the policies and procedures applicable to the Business Incentives for Growth (BIG) program.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Businesses interested in applying for or receiving assistance through the program will bear the costs of this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

Businesses interested in applying for or receiving assistance through the program will benefit from this proposed rulemaking.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Businesses interested in applying for assistance may require staff time to complete an application. Businesses that are awarded tax incentives or financial assistance may similarly incur costs to

administer an award. Some applicants may choose to rely on an external service provider to complete these tasks. The amount of the costs will vary depending on the compensation of staff or service providers.

- **Qualitative description of impact:**

The program provides a financial incentive to businesses relocating to Iowa from another state or expanding within the State.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Authority staff time is required to review and approve applications, draft and execute program contracts, authorize utilization tax incentives, disburse financial assistance, monitor compliance with award terms, and communicate with program applicants and recipients.

- **Anticipated effect on State revenues:**

The proposed rules have no anticipated impact on State revenues. The Authority is directed to administer the program by Iowa Code chapter 15, subchapter II, part 33, as enacted by 2025 Iowa Acts, Senate File 657.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Only the entities that will potentially benefit from the program bear the costs of this proposed rulemaking. The costs to the State to administer the program are proportional to the activities supported by the program.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Authority has not identified any less costly methods or less intrusive methods for administering the program.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Authority did not consider any other methods.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Authority did not consider any other methods.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking impacts only small businesses seeking financial assistance. The rules regarding compliance and reporting requirements are no more stringent than necessary to implement

the purposes of the program. The rules do not establish schedules or deadlines. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Adopt the following **new** 261—Chapter 69:

CHAPTER 69
BUSINESS INCENTIVES FOR GROWTH (BIG) PROGRAM

261—69.1(15) Definitions. For purposes of this chapter, unless the context otherwise requires:

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

"Award date" means the date the board approved an application for financial assistance or tax incentives.

"Base employment level" means the same as defined in Iowa Code section 15.503 as enacted by 2025 Iowa Acts, Senate File 657.

"Benefits" means the same as defined in Iowa Code section 15.503 as enacted by 2025 Iowa Acts, Senate File 657.

"Board" means the same as defined in Iowa Code section 15.102.

"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 the same as defined in Iowa Code section 15.503 as enacted by 2025 Iowa Acts, Senate File 657.

"Contract end date" means the date on which the agreement entered into pursuant to Iowa Code section 15.506 ends.

"Created job" means the same as defined in Iowa Code section 15.503 as enacted by 2025 Iowa Acts, Senate File 657.

"Data center business" means the same as defined in Iowa Code section 423.3(95).

"Eligible business" means a business that meets the requirements of Iowa Code section 15.504 as enacted by 2025 Iowa Acts, Senate File 657.

"Financial assistance" means the same as defined in Iowa Code section 15.511 as enacted by 2025 Iowa Acts, Senate File 657.

"Full-time equivalent position" means the same as defined in Iowa Code section 15.503 as enacted by 2025 Iowa Acts, Senate File 657.

"Laborshed area" means the geographic area surrounding an employment center from which the employment center draws its commuting workers as defined by the department of workforce development.

"Laborshed wage" means the wage level represented by those wages within two standard deviations from the mean wage within the laborshed area in which the eligible business is located, calculated pursuant to rule 261—69.9(15), using the most current covered wage and employment data available from the department of workforce development for the laborshed area.

"Program" means the same as defined in Iowa Code section 15.503 as enacted by 2025 Iowa Acts, Senate File 657.

"Project" means the same as defined in Iowa Code section 15.503 as enacted by 2025 Iowa Acts, Senate File 657.

"Project completion date" means the same as defined in Iowa Code section 15.503 as enacted by 2025 Iowa Acts, Senate File 657.

"Project completion period" means the same as defined in Iowa Code section 15.503 as enacted by 2025 Iowa Acts, Senate File 657.

"Qualifying investment" means the same as defined in Iowa Code section 15.503 as enacted by 2025 Iowa Acts, Senate File 657.

"Qualifying wage threshold" means the same as defined in Iowa Code section 15.503 as enacted by 2025 Iowa Acts, Senate File 657.

"Retained job" means the same as defined in Iowa Code section 15.503 as enacted by 2025 Iowa Acts, Senate File 657.

"Retention-only project" means a project that involves only retained jobs.

"Tax incentive" means a sales and use tax refund approved pursuant to Iowa Code section 15.507 as enacted by 2025 Iowa Acts, Senate File 657; a qualifying investment tax credit approved pursuant to Iowa Code section 15.508 as enacted by 2025 Iowa Acts, Senate File 657; or a combination of both.

"Total project cost" means the total cost incurred by an eligible business to complete a project, including but not limited to qualifying investment, as identified in an agreement entered into pursuant to Iowa Code section 15.506 as enacted by 2025 Iowa Acts, Senate File 657.

261—69.2(15) Eligibility requirements.

69.2(1) *Community approval.* Community approval of the project by ordinance or resolution is required as specified in Iowa Code section 15.504 as enacted by 2025 Iowa Acts, Senate File 657.

69.2(2) *Eligible businesses.*

a. For the purposes of determining whether a business is an eligible business type pursuant to Iowa Code section 15.504(1)*"b"* as enacted by 2025 Iowa Acts, Senate File 657, "retail business" means any business primarily engaged in the business of sale at retail of tangible personal property or taxable services in this state or online. "Sale at retail" means the same as defined in Iowa Code section 423.1(46). A business obligated to collect sales or use tax under Iowa Code chapter 423 may be an ineligible retail business.

b. A service business is not eligible for the program unless a significant proportion of its sales, as determined by the authority, are outside this state.

c. A business shall provide evidence that the business's primary operations are in a qualifying industry pursuant to Iowa Code section 15.504(1)*"b"* as enacted by 2025 Iowa Acts, Senate File 657. Such evidence may include but is not limited to whether the business has a North American industry classification system (NAICS) number aligned with the relevant industries as determined by the authority. Businesses with other NAICS numbers will be required to document to the authority's satisfaction that the business is primarily engaged in an applicable industry identified in Iowa Code section 15.504(1)*"b"* as enacted by 2025 Iowa Acts, Senate File 657, based on factors including but not limited to sources of revenue and customer base.

d. A business shall demonstrate it is not a data center business that is ineligible for the program pursuant to Iowa Code section 15.504(1)*"b"* as enacted by 2025 Iowa Acts, Senate File 657.

69.2(3) *Relocations and reductions in operations.* The authority will determine whether a business is ineligible due to a relocation or reduction in operations pursuant to Iowa Code section 15.504(1)*"c"* as enacted by 2025 Iowa Acts, Senate File 657.

69.2(4) *Determination of sufficient benefits.* The business shall offer a sufficient package of benefits to each full-time equivalent position included in the business's base employment level and to each full-time equivalent position at the project location until the contract end date. The benefits package provided shall meet the criteria established by the board. The board will 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 amounts, and other such criteria as determined necessary to the evaluation of benefits offered by a business.

69.2(5) *Violations of law.* The authority will address violations of law as described in Iowa Code section 15.504(1)*"e"* as enacted by 2025 Iowa Acts, Senate File 657.

69.2(6) *Sufficient economic impact.* The business shall demonstrate that the project has a sufficient economic impact as described in Iowa Code section 15.504(2)*"b"* as enacted by 2025 Iowa Acts, Senate File 657.

69.2(7) *Created and retained jobs.* The jobs created or retained by a business shall pay the applicable wages as established in rule 261—69.9(15).

69.2(8) *Applicant's past or current performance.* If an applicant received a prior award or other benefit through any program administered by the authority, the authority and board will consider the applicant's past or current performance under the prior award or benefit.

69.2(9) *Results of due diligence review.* The authority will complete a due diligence review, including but not limited to lien searches, reports of violations, pending or resolved litigation, and other relevant information about the applicant. A business may be ineligible based on the results of the review.

69.2(10) *Other factors.* The authority shall consider any applicable additional factors pursuant to Iowa Code section 15.504(2) as enacted by 2025 Iowa Acts, Senate File 657.

69.2(11) *Ineligible projects.*

a. The following activities are presumed by the authority to lack sufficient economic impact to accomplish the goals of the program and are not eligible for the program pursuant to Iowa Code section 15.504(2)*"b"* as enacted by 2025 Iowa Acts, Senate File 657.

(1) Facility maintenance, and

(2) Replacement or upgrades of equipment occurring in the normal course of business.

b. A project representing solely acquisition of a business as a going concern that does not include creation or retention of jobs and qualifying investment at the acquired business facility is not eligible for the program. A qualified project that occurs following acquisition of a business as a going concern may be eligible for the program.

c. If the qualifying investment for a project includes long-term lease costs, the project is not eligible for the program unless the proposed lease is for a term of at least ten years.

69.2(12) *Project initiation.* An eligible business shall not initiate its project prior to board approval of the business's application for the program unless the business establishes that a delay in initiating the project would result in undue hardship or that extenuating circumstances necessitate initiating the project prior to approval of the business's application. Whether an undue hardship or extenuating circumstance exists will be determined by the authority.

a. 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.

b. The following shall not indicate a project has been initiated:

(1) The purchase of land or signing of an option to purchase land;

(2) Earthmoving or other site development activities not involving actual building construction, expansion or rehabilitation; or

(3) Acquisition of a business as a going concern.

c. Any costs incurred prior to the award date are not eligible qualifying investment expenses.

261—69.3(15) Application process and review.

69.3(1) *Application.* Businesses applying for the program shall utilize a standardized application developed by the authority and submit the application to the authority electronically.

69.3(2) *Community participation.* The application shall include an ordinance or resolution of the community's governing body approving the project. If applicable, the application shall also include documentation of any incentives or assistance to be provided by the community for the project.

69.3(3) *Water conservation and waste reduction plan.*

a. To determine whether a water conservation and waste reduction plan is required pursuant to Iowa Code section 15.505(1)*"b"* as enacted by 2025 Iowa Acts, Senate File 657, the authority will consider the following factors:

(1) The total anticipated water consumption for the project.

(2) The total capacity of applicable water provider facilities that will serve the project compared to the total anticipated water consumption for the project.

(3) Any information provided by the applicable water provider about its ability or inability to accommodate the anticipated water consumption for the project.

(4) Any information provided by the department of natural resources about the ability or inability of the applicable water provider to accommodate the anticipated water consumption for the project.

(5) Any other factors relevant to water consumption and wastewater management at the project facility.

b. If required, the water conservation and waste reduction plan required by Iowa Code section 15.505(1)*"b"* as enacted by 2025 Iowa Acts, Senate File 657, shall be submitted to the authority as an attachment to the standardized application developed by the authority. The plan should be developed by an employee or third-party provider with sufficient professional expertise to determine the anticipated water consumption and wastewater discharge for the project. The plan shall describe the impact of the project on the applicable water provider and the community or communities served by the applicable water provider and any measures to be taken by the business to mitigate its water consumption or wastewater discharge.

69.3(4) *Applicability of wage requirements.* The qualifying wage threshold applicable to a project is the threshold in effect on the date the fully completed project application 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 after the month the thresholds were updated. The authority shall have sole discretion to determine whether an application is fully completed. Qualifying wage thresholds will be calculated and applied as described in rule 261—69.9(15).

69.3(5) *Job requirements.* If applicable, the created job and retained job requirements applicable to a project, identified as described in rule 261—69.8(15), will be established at the time of application. Job requirements will be based on the base employment level as of the date the application was fully completed and submitted to the authority and the eligible business's job projections and will be utilized to determine the amount of tax incentives and financial assistance.

69.3(6) *Investment requirements.* The investment requirements applicable to a project will be established at the time of application. Investment requirements are based on an eligible business's estimates of total project costs and qualifying investment and will be utilized to determine the amount of tax incentives and financial assistance. For the purposes of determining whether an expenditure is a qualifying investment as defined in Iowa Code section 15.503 as enacted by 2025 Iowa Acts, Senate File 657, the following are considered a capital investment in depreciable assets for use in the operation of an eligible business: machinery and equipment used in the manufacturing process, computer hardware, and furniture and fixtures. The following will not be considered a capital investment in depreciable assets for use in the operation of an eligible business: any other machinery and equipment, racking or shelving, computer software, and research and development.

69.3(7) *Board approval and notice.*

a. Authority staff will review applications to ensure program eligibility requirements are satisfied. Authority staff may request additional information from the business or may use other resources to obtain the needed information. The authority or board may engage outside reviewers to complete technical, financial, or other reviews of applications beyond the expertise of the board and authority staff. Negotiation of the terms of, and the aggregate value of, tax incentives and financial assistance will occur following review of an application by authority staff and will be based on the factors identified in rule 261—69.4(15).

b. Complete and eligible applications and supporting documentation will be submitted to the board for its consideration. Authority staff will submit a report to the board that summarizes the project. The report will include recommendations from authority staff on the terms of, and the aggregate value of, tax incentives and, if applicable, financial assistance based on the factors identified

in rule 261—69.4(15) or any other elements of the proposed award. Staff may provide the board additional information or documentation as determined by staff. The board may offer an award that differs from that requested or recommended by authority staff. Meeting eligibility requirements does not guarantee that tax incentives or financial assistance will be offered or provided in the manner sought by the applicant.

c. The due diligence committee of the board established pursuant to 261—Chapter 1 will review applications and make recommendations regarding the size and conditions of awards. The board may accept or reject recommendations from the due diligence committee.

d. If the board approves an award, an applicant will be notified in writing, including any conditions and terms of the approval.

69.3(8) *Application fee.* An applicant for the program shall pay an application fee of one half of one percent of the total amount of tax incentives and financial assistance recommended pursuant to subrule 69.3(7)*"b,"* not to exceed $10,000, at the time an application is submitted to the board for its consideration. If the application fee has not been paid at the time of the board's approval of an application, the board may condition its approval on payment of the fee, including specifying the date by which the fee must be paid. If the board approves a total amount of tax incentives and financial assistance that is more or less than the amount recommended by authority staff, the fee will be adjusted accordingly. The fee may be refunded if the award is declined or rescinded within 180 days of approval. If the award is declined or rescinded more than 180 days after approval, the fee will not be refunded.

261—69.4(15) Award amounts and terms.

69.4(1) In negotiating the terms of, and the aggregate value of, tax incentives or financial assistance, the authority will consider a variety of factors, including but not limited to the following.

a. Economic impact. The extent to which an eligible business's proposed project demonstrates economic impact on the state based on the factors identified in Iowa Code section 15.504(2)*"b"* as enacted by 2025 Iowa Acts, Senate File 657.

b. Level of need. The following factors will determine the authority's assessment of need:

(1) Whether the business can raise only a portion of the debt and equity necessary to complete the project. The existence of a gap between the financing required and the committed financing indicates that tax incentives or financial assistance may be needed to fill the gap.

(2) 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. The existence of such a condition indicates that the project's risks may outweigh its rewards and that tax incentives or financial assistance may be needed to reduce the project's risks.

(3) Whether the business is deciding between an Iowa site and a site in another state for its project and the cost of completing the project at the out-of-state site is demonstrably lower. Such a condition indicates that tax incentives or financial assistance may be needed to equalize the cost differential between the two sites. The authority will attempt to quantify the cost differential between the sites.

c. Quality of the jobs. The extent to which the jobs involved in the project are considered higher quality jobs pursuant to factors including but not limited to wages; quality of benefits; requirements for specialized skills, education, or both; whether the jobs or applicable industry are expected to have low turnover of employees; and whether the jobs expose employees to minimal occupational hazards.

d. Created jobs. In addition to the number of created jobs, the authority may consider:

(1) The number of created jobs that meet or exceed the qualifying wage threshold relative to the total number of created jobs.

(2) The number of created jobs relative to an eligible business's base employment level.

(3) The number of created jobs relative to the population and employment levels of the community in which the project is located.

e. Community contributions. Whether and to what extent the community in which the project is located is contributing to the success of the project through incentives or assistance.

69.4(2) Eligible businesses that do not propose to create any jobs, including eligible businesses that propose retention-only projects, will receive lower award amounts compared to eligible businesses that propose to create jobs. The authority may establish award terms specific to projects that do not propose to create jobs.

69.4(3) Eligible businesses that propose a qualifying investment that includes long-term lease costs must demonstrate sufficient economic impact by proposing to create jobs.

69.4(4) Only projects that demonstrate extensive economic impact will be awarded the maximum amounts of tax incentives allowed pursuant to Iowa Code section 15.505(3)*"a"* as enacted by 2025 Iowa Acts, Senate File 657.

69.4(5) In addition to the considerations in subrules 69.4(1) through 69.4(4), award negotiations may be impacted by the available amount of investment tax credits allocated pursuant to Iowa Code section 15.119(2) as amended by 2025 Iowa Acts, Senate File 657, or the amount of financial assistance available pursuant to Iowa Code section 15.111 as enacted by 2025 Iowa Acts, Senate File 657.

261—69.5(15) Tax incentives. The authority may approve a business to receive any combination of applicable tax incentives allowed through the program pursuant to Iowa Code section 15.507 or 15.508 as enacted by 2025 Iowa Acts, Senate File 657. An approved business shall not claim a tax incentive in excess of the amount specified in an agreement entered into pursuant to Iowa Code section 15.506 as enacted by 2025 Iowa Acts, Senate File 657.

69.5(1) *Property tax exemption.* If a community approves an exemption from taxation pursuant to Iowa Code section 15.510 as enacted by 2025 Iowa Acts, Senate File 657, the community shall provide the authority and the local assessor with a copy of the resolution adopted by the community's governing body that indicates the estimated value and duration of the authorized exemption.

69.5(2) *Investment tax credit—treatment of rent.* The annual base rent paid to a third-party developer by an approved business may be considered new investment for the purpose of an investment tax credit approved pursuant to Iowa Code section 15.508 as enacted by 2025 Iowa Acts, Senate File 657. Annual base rent may be included as new investment 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. For the purposes of this subrule, "annual base rent" means the business's annual lease payment minus taxes, insurance and operating or maintenance expenses.

69.5(3) *Investment tax credit—amortization and claims.* The five-year amortization of a qualifying investment tax credit issued pursuant to Iowa Code section 15.508 as enacted by 2025 Iowa Acts, Senate File 657, shall begin no earlier than the year the credit is issued. Each amortized portion of the credit shall be claimed in the tax year it becomes available except to the extent an overpayment is credited to the immediately succeeding tax year.

261—69.6(15) Financial assistance. The authority may award financial assistance pursuant to Iowa Code sections 15.111 and 15.511 as enacted by 2025 Iowa Acts, Senate File 657. Awards of financial assistance shall be entirely at the discretion of the board.

261—69.7(15) Agreements and compliance.

69.7(1) *Execution.* Successful applicants will be required to execute an agreement with the authority within 180 days of the award date. The time limit for execution may be extended by the authority director for an additional 180 days for good cause shown. Upon expiration of the time limit, including any extensions approved pursuant to this subrule, the board may approve additional extensions or rescind the award.

69.7(2) *Requirements.* An agreement shall meet all requirements of and be administered pursuant to Iowa Code section 15.506 as enacted by 2025 Iowa Acts, Senate File 657.

69.7(3) *Jobs.* If applicable, an agreement will specify the number of jobs the business has pledged to create in addition to the base employment level and the number of retained jobs. An agreement may specify that a business has pledged additional jobs or pledged wage requirements that differ from the qualifying wage threshold as a condition to receipt of an award or receipt of a specific amount or form of tax incentives or financial assistance. Job obligations will be established and monitored pursuant to rule 261—69.8(15).

69.7(4) *Investment.* An agreement will describe the project and specify the total project cost and qualifying investment the business proposes to make.

69.7(5) *Project completion date.* An agreement will specify the project completion date and the applicable requirements that must be met by the project completion date.

69.7(6) *Contract end date.*

a. The authority will establish an initial contract end date based on the estimated completion date of an eligible business's project. The contract end date may be amended based on actual completion of the project pursuant to subrule 69.7(10). The agreement will specify the applicable requirements that must continue to be met until the contract end date.

b. The total contract length will be at least two years. The total contract length will be determined based on factors including but not limited to the total amount of tax incentives or financial assistance provided and the form of tax incentives or financial assistance provided.

c. An agreement may be terminated early by mutual agreement of the parties. The amount of tax incentives or financial assistance available may be reduced if the contract is terminated early.

69.7(7) *Conditions to disbursement.* An agreement will specify the conditions to disbursement of financial assistance or issuance of tax incentives, including but not limited to compliance with the requirements of Iowa Code section 15A.1(3)*"b"* regarding solid and hazardous waste.

69.7(8) *Monitoring and reports.* The authority shall ensure that program recipients comply with contracts entered into pursuant to this rule. An agreement will specify the reports a program recipient must submit to the authority and due dates for such reports. Reports shall be provided in the form and content acceptable to the authority.

a. Recipients shall report annually to the authority about the status of the project, including but not limited to employment, wages, benefits, project costs, investment, and compliance with the contract. The authority will use the data it collects in the authority's annual report to the general assembly pursuant to Iowa Code section 15.107B.

b. Recipients shall submit a report to the authority following the project completion date and the contract end date to verify compliance with the agreement.

c. On-site or remote monitoring may be conducted during the contract term as deemed appropriate by the authority.

69.7(9) *Default.* An agreement will specify events of default and the remedies available to the authority.

a. Financial assistance. If the authority determines that a recipient is in default, the authority may seek recovery of all financial assistance funds plus interest; assess penalties; negotiate alternative repayment schedules; initiate, suspend or discontinue collection efforts; and take other appropriate action as the board deems necessary. Negotiated settlements, write-offs or discontinuance of collection efforts are subject to approval by the board. 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 the scope of counsel's authorization to accept settlements shall apply.

b. Tax incentives. If the authority determines that a recipient is in default, the eligible business may be required to repay tax incentives pursuant to Iowa Code section 15.506(1)*"b"* as enacted by 2025 Iowa Acts, Senate File 657. The repayment amount is subject to applicable interest and penalties as determined by the department of revenue. If the business is an entity that has elected pass-through taxation status for income tax purposes, the department of revenue may undertake collection efforts against members, individuals or shareholders to whom the tax incentives were passed through.

c. Calculation of repayment due or reduction.

(1) Job shortfall. If a business does not meet its job requirements, the repayment amount or reduction of tax incentives or financial assistance shall be the same proportion as the amount of the job shortfall. For example, if the business creates 50 percent of the jobs required, the business shall repay 50 percent of the tax incentives or financial assistance received, or tax incentives or financial assistance will be reduced by 50 percent.

(2) Investment shortfall. If a business does not meet the requirements for total project cost or qualifying investment, the repayment amount or reduction of tax incentives or financial assistance shall be the same proportion as the amount of the shortfall in applicable required investment. For example, if the business meets 75 percent of the amount of required qualifying investment, the business shall repay 25 percent of the amount of the tax incentives or financial assistance received, or tax incentives or financial assistance will be reduced by 25 percent. If a business has a shortfall in both total project cost and qualifying investment, the repayment amount or reduction shall be the same proportion as the greater of the two shortfalls.

(3) Job and investment shortfalls. If a business has a shortfall in both investment and job requirements, the repayment amount or reduction shall be the same proportion as the greater of the two shortfalls. For example, if a business creates 50 percent of the required jobs and meets 75 percent of the required qualifying investment, the business shall be required to repay 50 percent of the amount of the tax incentives or financial assistance received, or tax incentives or financial assistance will be reduced by 50 percent.

(4) Benefits. Notwithstanding any other provision in this subrule, if a business fails to comply with the benefit requirements of the agreement, the business shall be required to repay all of the tax incentives or financial assistance received, or tax incentives or financial assistance will be fully revoked.

(5) Minimum eligibility. Notwithstanding any other provision in this subrule, if a business fails to maintain eligibility for the program, the business shall repay all of the tax incentives or financial assistance received, or tax incentives or financial assistance will be fully revoked.

d. Notice of default. The authority will notify a business of an event of default as described in the agreement. If the community in which the project is located provided a property tax exemption pursuant to Iowa Code section 15.510 as enacted by 2025 Iowa Acts, Senate File 657, the authority will also notify the community of an event of default as described in the agreement.

69.7(10) *Amendments.* Agreement amendments must comply with Iowa Code chapter 15, subchapter II, part 33, as enacted by 2025 Iowa Acts, Senate File 657, and this chapter. Participating businesses may submit requests for amendments to authority staff.

a. Except as provided in paragraph 69.7(10)*"b,"* no request to amend an agreement may be approved unless it has been reviewed by the due diligence committee established pursuant to 261—Chapter 1, the due diligence committee has recommended approving the request to amend the agreement and the board approves the request to amend the agreement.

b. Authority staff may approve nonsubstantive changes, including but not limited to the following:

(1) Recipient name, address and similar changes.

(2) Collateral changes that do not materially and substantially impact the authority's security.

(3) Line-item budget changes that do not reduce overall total project costs or qualifying investment.

(4) Loan repayment amounts or due dates that do not extend the final due date of a loan.

(5) Changes to tax credit amortization schedules.

(6) Extension of a project completion date or contract end date of up to 12 months.

261—69.8(15) Job counting.

69.8(1) *Overview.* The authority will count created and retained jobs using a base employment analysis comparing the base employment level to employment on another date. The business's base employment level will be established at the time of application for the program. The number of jobs

the business has pledged to create shall be in addition to the base employment level. Retained jobs may be included in the base employment level as established at the time of approval.

69.8(2) *Base employment level.*

a. Base employment level will include the number of full-time equivalent positions employed at the project location. If the project occurs at more than one physical location, the business's base employment level will include the total number of full-time equivalent positions working at the identified locations. Base employment level may include the business's full-time equivalent positions as identified by the authority that are based in this state but are not based at the project location.

b. If a business receives multiple awards for projects at the same location, including through the program or through the high quality jobs program administered pursuant to Iowa Code chapter 15, subchapter II, part 13, the base employment level will be calculated by using the payroll document from the oldest award that is open. Job obligations from each new award will be added to this base employment level.

c. The authority will collect payroll documents to calculate and verify the base employment level used in each award. Payroll documents must include a name or employee identification number and the hourly rate of pay for all full-time equivalent positions.

d. If the base employment level includes retained jobs, the authority will 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.

69.8(3) *Verification.* At the project completion date and until the contract end date, payroll documents will be used to calculate and verify compliance with job obligations. The person who submits the documents must, under penalty of perjury, verify that the information contained in the documents is true and correct.

69.8(4) *Full-time equivalent positions.*

a. Only an individual filling a full-time equivalent position will be considered an employee of the business for the purpose of establishing the base employment level, retained jobs, or created jobs. The authority will not consider "job sharing" or any other means of aggregation or combination of hours worked by more than one natural person in counting jobs. The authority will verify that full-time equivalent positions constitute the employment of one person for:

(1) Eight 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.

b. If employees at the facility do not typically work 40 hours per week, the business will be required to provide documentation outlining what the business considers a full-time workweek and how the business's interpretation fits within the norms of its industry standards. Whether to accept this interpretation is within the sole discretion of the authority.

69.8(5) *Contract employees.* A business's leased or contract employee may be included in the base employment level, as a created job, or as a retained job only if the following requirements are met:

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

b. 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.

c. The contract between the third-party provider and the business specifically requires the third-party provider to submit payroll records to the authority, in the 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.

d. 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.

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

69.8(6) *Remote employees.* Employees in a position with a reasonable connection to a project location who work remotely may be included in the base employment level, as a created job, or as a retained job as established by the authority at the time of application. To determine whether employees who work remotely should be included, the authority will consider a business's policies on establishing remote work locations for employees, reporting structures, percentage of time worked at the project location, and the distance of employees' remote work locations from the project location. Only employees who work remotely within a defined geographic area established by the authority will be included. Whether an employee who works remotely is included in the base employment level, as a created job, or as a retained job pursuant to this subrule shall be solely within the discretion of the authority.

261—69.9(15) Wage requirements. Created or retained jobs shall meet the qualifying wage threshold requirements as established pursuant to this rule and as indicated in an agreement entered into pursuant to Iowa Code section 15.506 as enacted by 2025 Iowa Acts, Senate File 657. Jobs that do not meet the qualifying wage threshold requirements will not be counted toward a business's job creation or job retention obligations unless, pursuant to subrule 69.7(3), an agreement specifies that a business has pledged additional jobs or pledged wage requirements that differ from the qualifying wage threshold as a condition to receipt of an award or receipt of a specific amount or form of tax incentives or financial assistance.

69.9(1) If the business is creating jobs, the business shall demonstrate that the jobs will pay at least 100 percent of the laborshed wage by the project completion date and until the contract end date. If the business is retaining jobs, the business shall demonstrate that the jobs will pay at least 120 percent of the laborshed wage from the award date until the contract end date. The authority may establish a higher qualifying wage threshold requirement for a specific project if the quality of jobs is a significant factor in negotiating the award pursuant to rule 261—69.4(15).

69.9(2) The authority will update the qualifying wage thresholds annually each fiscal year. The thresholds will take effect on September 1 of each fiscal year and remain in effect until August 31 of the following fiscal year. If the authority determines that the laborshed wage of a laborshed area would increase by more than one dollar per hour, the authority may limit the increase to the qualifying wage threshold for that laborshed area for that annual update to one dollar per hour or may reflect the full amount of an increase.

69.9(3) The authority will calculate the laborshed wage as follows:

a. The most current covered wage and employment data available from the department of workforce development will be used.

b. The wage will be computed as a mean wage figure and represented in terms of an hourly wage rate.

c. Only the wages paid by employers for jobs performed within the first two zones of a laborshed area will be included.

d. 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.

e. 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 the department of workforce development has finalized a data-sharing agreement with the state in question and has received the necessary data.

f. Only those wages within two standard deviations of the mean wage will be included.

69.9(4) The authority may establish a qualifying wage threshold requirement lower than those designated pursuant to subrule 69.9(1) if a business located in the county experiences a layoff or a closure that has a significant impact on a community within the county.

a. Factors the authority will consider in determining whether a layoff or closure has a significant impact on a community within the county include but are not limited to total number of employees impacted, percentage of the applicable laborshed impacted, number of employees impacted as a percentage of population, current unemployment rate, and unemployment rate including the employees affected by a layoff or closure.

b. A city or county shall request the designation of a county as an area that has experienced a significant impact pursuant to this subrule in writing. Such requests are subject to approval by the board. Requests may be made simultaneously with a project application that would qualify for a lower qualifying wage threshold requirement pursuant to this subrule if the request is approved.

69.9(5) The authority will update the list of areas qualifying for a lower wage threshold designated pursuant to subrule 69.9(4) according to the same schedule as the qualifying wage thresholds are updated pursuant to subrule 69.9(2). Designations of such areas will apply in the same manner as wage thresholds are applied as described in subrule 69.3(4).

69.9(6) To determine the wages paid to the employees of an eligible business, the authority will include only 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. The wage will not include nonregular 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.

These rules are intended to implement Iowa Code chapter 15, subchapter II, part 33, as enacted by 2025 Iowa Acts, Senate File 657, and section 15A.1.