CHAPTER 1090

ECONOMIC DEVELOPMENT AUTHORITY PROGRAMS — MAJOR ECONOMIC GROWTH ATTRACTION PROGRAM — CERTIFIED SITE AND HIGH-QUALITY JOBS PROGRAMS

S.F. 574

AN ACT relating to programs administered by the economic development authority by establishing the economic growth attraction program, modifying the certified site and high-quality jobs programs, making appropriations, providing penalties, and including effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
MAJOR ECONOMIC GROWTH ATTRACTION PROGRAM

Section 1. Section 9I.3, subsection 3, Code 2024, is amended by adding the following new paragraph:

NEW PARAGRAPH. *f.* An interest in agricultural land acquired by a foreign business for an immediate use other than farming if all of the requirements of section 15.498 are met.

Sec. 2. NEW SECTION. **15.490 Short title.**

This part shall be known and may be cited as the *"Major Economic Growth Attraction Program"* or *"MEGA Program"*.

Sec. 3. NEW SECTION. **15.491 Definitions.**

As used in this part, unless the context otherwise requires:

1. *"Actively engaged in farming"* means any of the following:

a. Performing physical work which significantly contributes to crop or livestock production.

b. Making or taking part in making decisions contributing to or affecting the success of a farm's operations.

c. Entering into a contractual relationship with an outside entity to farm agricultural land as part of a farm's operations.

1A. *"Agricultural land"* means the same as defined in section 91.1. [1]

2. *"Base employment level"* means the number of full-time equivalent positions at a business, as established by the authority and the business using the business's payroll records, as of the date the business applies for tax incentives under the program.

3. *"Benefit"* means nonwage compensation provided to an employee. *"Benefits"* include medical and dental insurance, a pension, a retirement plan, a profit-sharing plan, child care, life insurance, vision insurance, and disability insurance.

4. *"Certified site"* means a site that has been issued a certificate of readiness by the authority pursuant to section 15E.18.

5. *"Community"* means a city, county, or entity established pursuant to chapter 28E.

6. *"Contract completion"* means the date of completion of the terms of a contract between a contractor and an eligible business.

7. *"Contractor"* means a person that has executed a contract with an eligible business for the provision of property, materials, or services for the construction or equipping of a facility that is part of the eligible business's project.

8. *"Created jobs"* or *"create jobs"* means new, permanent, full-time equivalent positions added to an eligible business's payroll, at the location of the eligible business's project, in excess of the eligible business's base employment level.

9. *"Data center business"* means the same as defined in section 423.3, subsection 95.

10. *"Eligible business"* means a business that meets the requirements of section 15.492.

[1] See chapter 1094, §64 herein

10A. *"Foreign adversary"* means a foreign government or foreign non-government person as determined in 15 C.F.R. §7.4, and that is listed in 15 C.F.R. §7.4(a) at any time from March 4, 2024, through the termination of the program.

10B. *"Foreign adversary entity"* means any of the following:

a. A foreign business subject to the jurisdiction of or organized under the laws of a foreign adversary.

b. A foreign business owned, directed, or controlled by a foreign adversary.

11. *"Foreign business"* means the same as defined in section 9I.1.

12. *"Full-time equivalent position"* means a non-part-time position for the number of hours or days per week considered to be full-time work for the kind of service or work performed for an employer. Typically, a *"full-time equivalent position"* requires two thousand eighty hours of work in a calendar year, including all paid holidays, vacations, sick time, and other paid leave.

13. *"Maintenance period"* means the period of time between the project completion date and the maintenance period completion date during which an eligible business must maintain all created jobs per the agreement under section 15.494.

14. *"Maintenance period completion date"* means the date on which the maintenance period ends.

15. *"Mega site"* means a certified site greater than one thousand acres.

16. *"Program"* means the major economic growth attraction program.

17. *"Project"* means an activity or set of activities directly related to the start-up or location of an eligible business, proposed in an eligible business's application to the program, that will accomplish the goals of the program.

18. *"Project completion date"* means the date by which an eligible business that has been approved by the authority to participate in the program agrees to complete the terms and conditions of the agreement under section 15.494.

19. *"Project completion period"* means the period of time between the date the authority approves an eligible business to participate in the program and the project completion date.

20. *"Qualifying investment"* means a capital investment in real property, including the purchase price of the land, site preparation, infrastructure, and building construction for use in the operation of an eligible business. *"Qualifying investment"* also means a capital investment in depreciable assets for use in the operation of an eligible business.

21. *"Qualifying wage threshold"* means the mean wage level represented by the wages within two standard deviations of the mean wage within the laborshed area in which the eligible business is located, as calculated by the authority by rule, using the most current covered wage and employment data available from the department of workforce development for the laborshed area in which the eligible business is located.

22. *"Subcontractor"* means a person that contracts with a contractor for the provision of property, materials, or services for the construction or equipping of a facility that is part of an eligible business's project.

23. *"Tax incentives"* means tax credits, tax refunds, or tax exemptions authorized under the program by the authority for an eligible business.

Sec. 4. NEW SECTION. **15.492 Eligible business.**

1. To be eligible to receive tax incentives under the program, a business must meet all of the following requirements:

a. The business's proposed project must be located on a site where the business has a controlling interest in or a certified site greater than two hundred fifty acres. The authority must determine a site is suitable for the project.

b. The business's qualifying investment in the proposed project must exceed one billion dollars.

c. The community in which the proposed project is located must approve the project either by ordinance or resolution.

d. (1) The business must be primarily engaged in advanced manufacturing, biosciences, or research and development. The business shall not be a data center business, a retail business, or a business where a cover charge or membership requirement restricts certain individuals from entering the business.

(2) Factors the authority shall consider to determine if a business is primarily engaged in advanced manufacturing, biosciences, or research and development shall include but are not limited to all of the following:

(a) The business's North American industry classification system code.

(b) The business's main sources of revenue.

(c) The business's customer base.

e. (1) The business must not be solely relocating operations from one area of the state to another area of the state. A proposed project that does not create jobs or involve a substantial amount of new capital investment shall be presumed to be a relocation of operations. For purposes of this subparagraph, the authority shall consider a letter from the affected local community's government officials supporting the business's move away from the affected local community in making a determination whether the business is solely relocating operations.

(2) This paragraph shall not be construed to prohibit a business from expanding the business's operations in a community if the business has similar operations in this state that are not closing or undergoing a substantial reduction in operations.

f. The business must create jobs as part of the business's proposed project. The business must demonstrate that the created jobs will pay at least one hundred forty percent of the qualifying wage threshold by the project completion date, and through the maintenance period completion date.

g. The business must provide comprehensive benefits to each employee employed in a created job. The authority may adopt rules under chapter 17A to determine the requirements for comprehensive benefits.

h. (1) The business must not have a record of violations of the law or of regulations, including but not limited to antitrust, environmental, trade, or worker safety, that over a period of time show a consistent pattern or that establish the business's intentional, criminal, or reckless conduct in violation of such laws or regulations.

(2) If the authority determines that the business has a record of violations described in subparagraph (1), and the authority finds that the violations did not seriously affect public health, public safety, or the environment, the business may be eligible to qualify for the program.

(3) If the authority determines that the business has a record of violations described in subparagraph (1), and the authority finds that there were mitigating circumstances related to the violations, the business may be eligible to qualify for the program.

(4) In making determinations and findings under subparagraphs (2) and (3), and making a determination whether a business is disqualified from the program, the authority shall be exempt from chapter 17A.

2. *a.* In determining if a business is eligible to participate in the program, the authority shall consider a variety of factors, including but not limited to all of the following:

(1) The quality of the business's proposed project's created jobs. The authority shall place greater emphasis on created jobs that are high wage, low turnover, that provide comprehensive benefits, and that expose employees to minimal occupational hazards. A business that pays wages substantially below that of similar businesses located in the same geographic area shall not be given priority under the program.

(2) The impact of the business's proposed project on businesses that are in competition with the business. The authority shall make a good-faith effort to identify existing Iowa businesses in competition with the business being considered for the program. The authority shall make a good-faith effort to determine the probability that any proposed tax incentives will displace employees of the competing businesses. In determining the impact on the competing businesses, created jobs resulting from employees being displaced from the competing businesses shall not be counted as created jobs for the applying business's project.

(3) The business's proposed project's economic impact on the state. The authority shall place greater emphasis on businesses and proposed projects that meet the following requirements:

(a) The business has a high proportion of in-state suppliers.

(b) The proposed project will diversify the state economy.

(c) The business has few in-state competitors.

(d) The proposed project has the potential to create jobs on an ongoing basis.

(e) Any other factors the authority deems relevant in determining the economic impact of a proposed project.

Sec. 5. NEW SECTION. **15.493 Applications — authorization of tax credits and exemptions.**

1. Applications for the program shall be submitted to the authority in the form and manner prescribed by the authority by rule. Each application must be accompanied by an application fee in an amount determined by the authority by rule.

2. In determining the eligibility of a business to participate in the program, the authority may engage outside experts to complete a technical, financial, or other review of an application submitted by a business if such review is outside the expertise of the authority.

3. *a.* The authority and the board may negotiate with an eligible business regarding the terms of, and the aggregate value of, the tax incentives the eligible business may receive under the program.

b. The board may authorize any combination of tax incentives available under the program for an eligible business.

4. The board may authorize an exemption to restrictions on agricultural land holdings if all of the requirements of section 15.498 are met.

Sec. 6. NEW SECTION. **15.494 Agreement.**

1. An eligible business that is approved by the authority to participate in the program shall enter into an agreement with the authority that specifies the criteria for the successful completion of all requirements of the program. The agreement must contain, at a minimum, provisions related to all of the following:

a. The eligible business must certify to the authority annually that the business is in compliance with the agreement.

b. If the eligible business fails to comply with any requirements of the program or the agreement, the eligible business may be required to repay any tax incentives the authority issued to the eligible business. A required repayment of a tax incentive shall be considered a tax payment due and payable to the department of revenue by any taxpayer that claimed the tax incentive, and the failure to make the repayment may be treated by the department of revenue in the same manner as a failure to pay the tax shown due, or required to be shown due, with the filing of a return or deposit form.

c. If the eligible business undergoes a layoff or permanently closes any of its facilities within the state, the eligible business may be subject to all of the following:

(1) A reduction or elimination of some or all of the tax incentives the authority issued to the eligible business.

(2) Repayment of any tax incentives that the business has claimed, and payment of any penalties assessed by the department of revenue.

d. The project completion date, the maintenance period completion date, the required number of created jobs, the qualifying wage threshold that is applicable to the project, the amount of qualifying investment, the maximum aggregate value of the tax incentives authorized by the board, and any other terms and obligations the authority deems necessary.

e. The eligible business shall only employ individuals legally authorized to work in this state. If the eligible business is found to knowingly employ individuals who are not legally authorized to work in this state, in addition to any penalties provided by law, all or a portion of any tax incentives issued by the authority shall be subject to recapture by the authority or the department of revenue.

f. The maximum amount of gross wages, not to exceed three percent, that the eligible business may withhold under section 15.497, and the time period, not to exceed the term of the agreement, during which the specified amount of gross wages may be withheld.

g. Any terms deemed necessary by the authority to effect the eligible business's ongoing compliance with section 15.492.

2. The business shall satisfy all applicable terms of the agreement by the project completion date; however, the board may for good cause extend the project completion date or otherwise

amend the terms of the agreement. The board shall not amend the terms of the agreement to allow an increase in the maximum aggregate value of the tax incentives authorized by the board under section 15.493, subsection 3.

3. The eligible business shall comply with all applicable terms of the agreement during the maintenance period.

4. The eligible business shall not assign the agreement to another entity without the advance written approval of the board.

5. The authority may enforce the terms of the agreement as necessary and appropriate.

Sec. 7. NEW SECTION. **15.495 Sales and use tax refund.**

1. An eligible business that has been issued a tax incentive certificate under the program shall be entitled to a refund of the sales and use taxes paid under chapter 423 for gas, electricity, water, and sewer utility services, 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 for the construction or equipping of a facility that is part of the eligible business's project. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

2. To receive the sales and use tax refund, the eligible business shall file a claim with the department of revenue as follows:

a. The contractor or subcontractor shall state under oath, on forms provided by the department of revenue, the amount of the sales of tangible personal property 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 contract completion, and shall submit the forms to the eligible business before contract completion.

b. The eligible business shall inform the department of revenue in writing of contract completion. The eligible business shall, after contract completion, submit an application to the department of revenue for a refund of the amount of the sales and use taxes paid pursuant to chapter 423 upon any tangible personal property, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be submitted in the form and manner prescribed by the department of revenue. The department of revenue shall audit the application and, if approved, issue a warrant or warrants to the eligible business in the amount of the sales or use tax which has been paid to the state of Iowa under subsection 1. The eligible business's application must be submitted to the department of revenue within one year after the project completion date. An application filed by the eligible business in accordance with this section shall not be denied by reason of a limitation set forth in chapter 421 or 423.

c. The refund shall be remitted by the department of revenue to the eligible business equally over five tax years. Interest shall not accrue on any part of the refund that has not yet been remitted by the department of revenue to the eligible business.

3. A contractor or subcontractor that willfully makes a false report of tax paid under this section is guilty of an aggravated misdemeanor, and shall be liable for payment of the tax and any applicable penalty and interest.

Sec. 8. NEW SECTION. **15.496 Qualifying investment tax credit.**

1. The authority may authorize a tax credit for an eligible business that is up to five percent of the eligible business's qualifying investment. The authority shall not issue a tax credit certificate to the eligible business until the eligible business's project has been placed in service, and at least fifty percent of the created jobs the eligible business agreed to in the agreement under section 15.494, and that pay at least one hundred forty percent of the qualifying wage threshold, have been added to the eligible business's payroll. The department of revenue shall remit the tax credit to the eligible business equally over five tax years. The tax credit shall be allowed against taxes imposed under chapter 422, subchapter II, III, or V, and against the moneys and credits tax imposed in section 533.329. If the eligible business is a partnership, S corporation, limited liability company, cooperative organized under chapter 501 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 chapter 501 and filing as a partnership for federal tax purposes, or estate or trust. Any tax credit in excess of the eligible business's tax liability for the tax year may be refunded or, at the eligible business's election, credited to the eligible business's tax liability in any of the following five consecutive tax years or until depleted, whichever occurs first. The eligible business shall make such election prior to the authority issuing a tax credit certificate to the eligible business, and the eligible business's election shall be noted on the tax credit certificate. A tax credit shall not be carried back to a tax year prior to the tax year in which the tax credit is first claimed by the eligible business.

2. If within five years of the date the authority issues an eligible business a tax credit under subsection 1, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other structures for which the tax credit was claimed under this section, the tax liability of the eligible business for the year in which all or part of the land, buildings, or other existing structures are sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

a. One hundred percent of the tax credit claimed under this section if all or a part of the land, buildings, or other structures for which the tax credit was claimed under this section cease to be eligible for the tax credit within one year after the date the authority issued the tax credit to the eligible business.

b. Eighty percent of the tax credit claimed under this section if all or a part of the land, buildings, or other structures for which the tax credit was claimed under this section cease to be eligible for the tax credit within two years after the date the authority issued the tax credit to the eligible business.

c. Sixty percent of the tax credit claimed under this section if all or a part of the land, buildings, or other structures for which the tax credit was claimed under this section cease to be eligible for the tax credit within three years after the date the authority issued the tax credit to the eligible business.

d. Forty percent of the tax credit claimed under this section if all or a part of the land, buildings, or other structures for which the tax credit was claimed under this section cease to be eligible for the tax credit within four years after the date the authority issued the tax credit to the eligible business.

e. Twenty percent of the tax credit claimed under this section if all or a part of the land, buildings, or other structures for which the tax credit was claimed under this section cease to be eligible for the tax credit within five years after the date the authority issued the tax credit to the eligible business.

Sec. 9. NEW SECTION. **15.497 Withholding tax credit.**

1. From the remittance due to the department of revenue pursuant to section 422.16, an eligible business may withhold an amount, pursuant to section 15.494, subsection 1, paragraph "*f*", of the gross wages paid to each employee in a created job that pays at least the qualifying wage threshold pursuant to the agreement under section 15.494.

2. If the amount withheld under subsection 1 is less than three percent of the gross wages paid to each employee in a created job that pays at least one hundred forty percent of the qualifying wage threshold, the eligible business shall receive a credit against the remaining withholding taxes due from the eligible business, or the eligible business may carry the credit forward up to five consecutive tax years or until depleted, whichever is earlier.

3. In any tax year, the aggregate amount of withholding tax credit under this section and under any other program for which an eligible business is receiving a withholding tax credit shall not exceed the amount the eligible business is required to deduct and remit to the department of revenue under section 422.16 for that tax year.

Sec. 10. NEW SECTION. **15.498 Foreign businesses — acquisition of agricultural land.**

1. The board may authorize an exemption to restrictions on agricultural land holdings for a foreign business if all of the following requirements are satisfied:

a. The foreign business qualifies as an eligible business pursuant to section 15.492.

b. As part of the application of the foreign business under section 15.493, the foreign business provides documentation to the authority, as deemed necessary by the authority,

to establish that the foreign business is not associated with a foreign adversary or foreign adversary entity.

c. The agricultural land for which the exemption is provided is a mega site or included in a mega site.

d. The foreign business is not actively engaged in farming.

2. *a.* A foreign business under subsection 1 that is approved by the authority to participate in the program shall enter into an agreement with the authority pursuant to section 15.494. The agreement shall include a provision that requires the foreign business to comply with chapter 9I, and specifies that failure to do so may result in revocation of all tax incentives issued by the authority to the foreign business.

b. The authority may grant the foreign business one or more one-year extensions in which the foreign business must comply with section 9I.4. The authority shall not grant more than five one-year extensions. The community in which the agricultural land is located must approve each one-year extension by ordinance or resolution prior to the authority granting each extension. The foreign business shall comply with the remaining provisions of chapter 9I to the extent the provisions do not conflict with this section.

Sec. 11. NEW SECTION. **15.499 Other incentives.**

1. Except for the high quality jobs program administered by the authority pursuant to sections 15.326 through 15.336, and the targeted jobs withholding credit pursuant to section 403.19A, an eligible business may apply for and be eligible to receive other federal, state, and local incentives in addition to the tax incentives issued by the authority to the eligible business under the program.

2. The authority, in its discretion, may prohibit an eligible business that has been issued tax incentives under the program from receiving any additional tax incentive, tax credit, grant, loan, or other financial assistance under any program administered by the authority.

Sec. 12. NEW SECTION. **15.500 Property tax exemption.**

1. A community in which an eligible business's project is located may grant the eligible business a property tax exemption for a portion of the actual value added by improvements to real property directly related to the eligible business's created jobs. The community may allow a property tax exemption for a period not to exceed twenty years beginning the year that the improvements to real property are first assessed for taxation.

2. For purposes of this section, *"improvements"* means new construction, and rehabilitation of and additions to existing structures.

3. A property tax exemption granted under subsection 1 shall apply to all taxing districts, except for school districts, in which the real property is located.

Sec. 13. NEW SECTION. **15.501 Restrictions on board.**

The board shall not authorize tax incentives available under the program, or an exemption to restrictions on agricultural land holdings pursuant to this part, for more than two eligible businesses, or on or after January 1, 2027, whichever occurs first.

Sec. 14. EMERGENCY RULES. The authority shall adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this division of this Act within sixty business days of the effective date of this division of this Act and shall submit such rules to the administrative rules coordinator and the administrative code editor pursuant to section 17A.5, subsection 1, within the same period. The rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 15. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II
CERTIFIED SITE AND HIGH-QUALITY JOBS PROGRAMS — APPROPRIATION

Sec. 16. 2023 Iowa Acts, chapter 110, section 15, subsection 1, paragraph a, subparagraph (1), is amended to read as follows:

(1) For the purposes of providing assistance as described in section 15.335B for the high quality jobs program:

..... $ 11,700,000

(a) From the moneys appropriated in this subparagraph, the economic development authority may use not more than $1,000,000 for purposes of providing infrastructure grants to main street communities under the main street Iowa program and may allocate not more than $300,000 for the purposes of supporting statewide worker education and quality preapprenticeship programs.

(b) Notwithstanding section 15.335B, subsection 2, from the moneys appropriated in this subparagraph, $300,000 is allocated to the economic development authority for certification costs associated with the authority's certified site program. Moneys allocated in this subparagraph division must be used to certify sites in counties with a population of less than 50,000 according to the 2020 federal decennial census and to certify at least two sites in each congressional district.

Sec. 17. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 10, 2024