CHAPTER 15E

DEVELOPMENT ACTIVITIES

Referred to in §12C.6A, 15.106A, 15.106B

[SP] For provisions regarding transition of department of economic development employees to the economic development authority and limitations on the Iowa innovation corporation's employment of former department employees, see 2011 Acts, ch 118, §19
[SP] For provisions regarding continuation of financial assistance by the economic development authority, transfer of funds under the control of the department of economic development to the economic development authority, continuation of licenses, permits, or contracts by the economic development authority, continuation of financial assistance awards under the grow Iowa values financial assistance program, and availability of federal funds to employ certain personnel, see 2011 Acts, ch 118, §20, 89

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DIVISION I

GENERAL PROVISIONS

15E.1 Definition.

As used in this chapter, unless the context otherwise requires, *"authority"* means the economic development authority created in section 15.105.

2002 Acts, ch 1119, §6; 2011 Acts, ch 118, §57, 89

15E.2 through 15E.10 Reserved.

DIVISION II

CORPORATION FOR RECEIVING AND DISBURSING FUNDS

15E.11 Corporation for receiving and disbursing funds.

The Iowa development commission is hereby authorized to form a corporation under the provisions of chapter 504, Code 1989, for the purpose of receiving and disbursing funds from public or private sources to be used to further the overall development and well-being of the state.

[C66, 71, 73, 75, 77, 79, 81, §28.11]
C93, §15E.11
2003 Acts, ch 108, §7
Referred to in §15.108, 15E.14, 15E.15, 15E.16

15E.12 and 15E.13 Reserved.

15E.14 Incorporators.

The incorporators of the corporation formed under sections 15E.11, 15E.15 and 15E.16, shall be:

1. The chairperson of the Iowa development commission.
2. The director of the Iowa development commission.

3. A member of the Iowa development commission selected by the chairperson.

[C66, 71, 73, 75, 77, 79, 81, §28.14]
C93, §15E.14
Referred to in §15.108, 15E.15, 15E.16

15E.15 Board of directors.

The board of directors of the corporation formed under sections 15E.11, 15E.14 and 15E.16 shall be the members of the Iowa development commission or their successors in office.

[C66, 71, 73, 75, 77, 79, 81, §28.15]
C93, §15E.15
Referred to in §15.108, 15E.14, 15E.16

15E.16 Accepting grants in aid.

The corporation formed under sections 15E.11, 15E.14 and 15E.15 is hereby authorized to accept grants of money or property from the federal government or any other source and may upon its own order use its money, property or other resources for any of the purposes herein.

[C66, 71, 73, 75, 77, 79, 81, §28.16]
C93, §15E.16
Referred to in §15.108, 15E.14, 15E.15

DIVISION III

REGULATORY INFORMATION AND ASSISTANCE

15E.17 Regulatory information service.

1. The economic development authority shall provide a regulatory information service. The purpose of the service shall be to provide a center of information where a person interested in establishing a commercial facility or engaging in a commercial activity may be informed of any registration, license, or other approval of a state regulatory agency that is required for that facility or activity or of the existence of standards, criteria, or requirements which the laws of this state require that facility or activity to meet.

2. Each state agency which requires a permit, license, or other regulatory approval or maintains standards or criteria with which an activity or facility must comply shall inform the economic development authority of the following:

a. The activity or facility that is subject to regulation.

b. The existence of any threshold levels which would exempt the activity or facility from regulation.

c. The nature of the regulatory program.

d. The amount of any fees.

e. How to apply for any permits or regulatory approvals.

f. A brief statement of the purpose of requiring the permit or regulatory approval or requiring compliance with the standards or criteria.

3. Each state agency shall promptly inform the economic development authority of any changes in the information provided under subsection 2 or the establishment of a new regulatory program. The information provided to or disseminated by the authority shall not be binding upon the regulatory program of a state agency; however, a person shall not be subject to the imposition of a penalty for failure to comply with a regulatory program if the person demonstrates that the person relied upon information provided by the authority indicating compliance was not required and either ceases the activity upon notification by the regulatory agency or brings the activity or facility into compliance.

4. Subsections 2 and 3 do not apply to the following:

a. The utilities division of the department of commerce insofar as the information relates to public utilities.

b. The banking division of the department of commerce.

c. The credit union division of the department of commerce.

[82 Acts, ch 1099, §1]
C83, §28.17
C93, §15E.17
2008 Acts, ch 1031, §14; 2011 Acts, ch 118, §85, 89
Referred to in §15.108

15E.18 Site development consultations — certificates of readiness.

1. *a.* The authority shall consult with local governments and local economic development officials in regard to site development techniques. For purposes of this section, *"site development techniques"* include environmental evaluations, property and wetland delineation, and historical evaluations.

b. The authority may charge a fee for providing site development consultations. The fee shall not exceed the reasonable cost to the authority of providing the consultations. The amount of any fees collected by the authority shall be deposited in the general fund of the state.

2. *a.* A local government or local economic development official involved with the development of a site may apply to the authority for a certificate of readiness verifying that the site is ready for development.

b. The authority shall develop criteria for evaluating various types of sites in order to determine whether a particular site is ready for development based on the site's individual circumstances and the economic development goals of the applicant.

c. The authority shall review applications for certificates of readiness and may issue a certificate of readiness to any site that meets the criteria developed under paragraph *"b"*.

3. The authority shall adopt rules pursuant to chapter 17A for the implementation of this section.

2003 Acts, ch 158, §1; 2003 Acts, 1st Ex, ch 1, §130, 133

[2003 Acts, 1st Ex, ch 1, §130, 133 amendments to section rescinded pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]

2010 Acts, ch 1184, §36; 2011 Acts, ch 118, §87, 89

15E.19 Regulatory assistance.

1. The economic development authority shall coordinate all regulatory assistance for the state of Iowa. Each state agency administering regulatory programs for business shall maintain a coordinator within the office of the director or the administrative division of the state agency. Each coordinator shall do all of the following:

a. Serve as the state agency's primary contact for regulatory affairs with the economic development authority.

b. Provide information regarding regulatory requirements to businesses and represent the state agency to the private sector.

c. Monitor permit applications and provide timely permit status information to the economic development authority.

d. Require regulatory staff participation in negotiations and discussions with businesses.

e. Notify the economic development authority regarding proposed rulemaking activities that impact a regulatory program and any subsequent changes to a regulatory program.

2. The economic development authority shall, in consultation with the coordinators described in this section, examine, and to the extent permissible, assist in the implementation of methods, including the possible establishment of an electronic database, to streamline the process for issuing permits to business.

2005 Acts, ch 150, §7; 2008 Acts, ch 1122, §12; 2011 Acts, ch 118, §85, 89

15E.20 Reserved.

15E.21 Iowa business resource centers.

The authority shall establish an Iowa business resource center program for purposes of locating Iowa business resource centers in the state. The authority shall partner with another

entity wanting to assist with economic growth and establish an Iowa business resource center. Operational duties of a center shall focus on providing information and referrals to entrepreneurs and businesses. Operational duties of a center shall be determined pursuant to a memorandum of agreement between the authority and the other entity.

2005 Acts, ch 150, §8; 2011 Acts, ch 118, §87, 89

15E.22 through 15E.24 Reserved.

DIVISION IV

LOCAL DEVELOPMENT CORPORATIONS

15E.25 through 15E.29 Repealed by 2001 Acts, ch 61, §19.

15E.30 through 15E.40 Reserved.

DIVISION V

INVESTMENTS IN QUALIFYING BUSINESSES AND COMMUNITY-BASED SEED CAPITAL FUNDS — TAX CREDIT

Referred to in §2.48

15E.41 Purpose.

The purpose of this division is to enhance the quality of life for citizens of this state through the increased availability of and accessibility to venture capital, particularly at the seed capital investment stage, which encourages the creation of wealth through high-paid, new jobs that increase the wage base and promote industrial development and innovative products that use new technology. The purpose of this division is also to encourage individuals to invest seed capital in Iowa businesses and in community-based seed capital funds.

2002 Acts, ch 1006, §1, 13

15E.42 Definitions.

For purposes of this division, unless the context otherwise requires:

1. *"Affiliate"* means a spouse, child, or sibling of an investor or a corporation, partnership, or trust in which an investor has a controlling equity interest or in which an investor exercises management control.
2. *"Authority"* means the economic development authority created in section 15.105.
3. *"Investor"* means a person making a cash investment in a qualifying business or in a community-based seed capital fund. *"Investor"* does not include a person that holds at least a seventy percent ownership interest as an owner, member, or shareholder in a qualifying business.
4. *"Near equity"* means debt that may be converted to equity at the option of the debt holder, and royalty agreements.
5. *"Qualifying business"* means a business meeting the criteria defined in section 15E.44.

2002 Acts, ch 1006, §2, 13; 2002 Acts, ch 1175, §75; 2003 Acts, ch 108, §8; 2003 Acts, ch 179, §95, 159; 2004 Acts, ch 1148, §1, 7; 2011 Acts, ch 130, §37, 46, 47, 71

[SP] 2011 amendment to subsection 2 applies retroactively to January 1, 2011, for tax years beginning and investments made on or after that date; 2011 Acts, ch 130, §47

15E.43 Investment tax credits.

1. *a.* For tax years beginning on or after January 1, 2002, a tax credit shall be allowed against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.329, for a portion of a taxpayer's equity investment, as provided in subsection 2, in a qualifying business or a community-based seed capital fund. An individual may claim a tax credit under this paragraph of a partnership,

limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

b. A tax credit shall be allowed only for an investment made in the form of cash to purchase equity in a qualifying business or in a community-based seed capital fund. A taxpayer shall not claim the tax credit prior to the third tax year following the tax year in which the investment is made. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit.

c. In the case of a tax credit allowed against the taxes imposed in chapter 422, division II, where the taxpayer died prior to redeeming the entire tax credit, the remaining credit can be redeemed on the decedent's final income tax return.

2. A tax credit shall equal twenty percent of the taxpayer's equity investment. The maximum amount of a tax credit for an investment by an investor in any one qualifying business shall be fifty thousand dollars. Each year, an investor and all affiliates of the investor shall not claim tax credits under this section for more than five different investments in five different qualifying businesses.

3. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. An investment made prior to January 1, 2002, shall not qualify for a tax credit under this division.

4. The authority shall not issue tax credits under this section in excess of the amount approved by the authority for any one fiscal year pursuant to section 15.119.

5. A tax credit shall not be redeemed during any tax year beginning prior to January 1, 2005. A tax credit shall not be transferable to any other taxpayer.

6. The authority shall develop a system for registration and authorization of tax credits authorized pursuant to this division and shall control distribution of all tax credits distributed to investors pursuant to this division. The authority shall develop rules for the qualification and administration of qualifying businesses and community-based seed capital funds. The department of revenue shall adopt these criteria as administrative rules and any other rules pursuant to chapter 17A necessary for the administration of this division.

7. The authority may cooperate with the small business development centers in an effort to disseminate information regarding the availability of tax credits for investments in qualifying businesses under this division. The authority may also cooperate with the small business development centers to develop a standard seed capital application form that the small business development centers may submit to the authority on behalf of clients seeking seed capital. The authority shall distribute copies of the application forms to all community-based seed capital funds and potential individual investors.

2002 Acts, ch 1006, §3, 13; 2002 Acts, ch 1175, §76; 2003 Acts, ch 145, §286; 2003 Acts, ch 179, §96, 97, 159; 2004 Acts, ch 1148, §2, 7; 2005 Acts, ch 157, §1; 2007 Acts, ch 174, §83; 2011 Acts, ch 118, §87, 89; 2011 Acts, ch 130, §38, 46, 47, 71

Referred to in §15.119, 15E.44, 15E.45, 422.11F, 422.33, 422.60, 432.12C, 533.329

[SP] 2011 amendment to subsection 4 applies retroactively to January 1, 2011, for tax years beginning and investments made on or after that date; 2011 Acts, ch 130, §47

15E.44 Qualifying businesses.

1. In order for an equity investment to qualify for a tax credit, the business in which the equity investment is made shall, within one hundred twenty days of the date of the first investment, notify the authority of the names, addresses, shares issued, consideration paid for the shares, and the amount of any tax credits, of all shareholders who may initially qualify for the tax credits, and the earliest year in which the tax credits may be redeemed. The list of shareholders who may qualify for the tax credits shall be amended as new equity investments are sold or as any information on the list shall change.

2. In order to be a qualifying business, a business must meet all of the following criteria:

a. The principal business operations of the business are located in this state.

b. The business has been in operation for six years or less.

c. The business has an owner who has successfully completed one of the following:

(1) An entrepreneurial venture development curriculum.

(2) Three years of relevant business experience.

(3) A four-year college degree in business management, business administration, or a related field.

(4) Other training or experience as the authority may specify by rule or order as sufficient to increase the probability of success of the qualifying business.

d. The business is not a business engaged primarily in retail sales, real estate, or the provision of health care or other services that require a professional license.

e. The business shall not have a net worth that exceeds five million dollars.

f. The business shall have secured, within twenty-four months following the first date on which the equity investments qualifying for tax credits have been made, total equity or near equity financing equal to at least two hundred fifty thousand dollars.

3. A qualifying business shall have the burden of proof to demonstrate to the authority its qualifications under this section, and shall have the obligation to notify the authority in a timely manner of any changes in the qualifications of the business or in the eligibility of investors to redeem the investment tax credits in any tax year.

4. After verifying the eligibility of a qualifying business, the authority shall issue a tax credit certificate to be attached to the equity investor's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of credit, the name of the qualifying business, and other information required by the department of revenue. The tax credit certificate, unless rescinded by the authority, shall be accepted by the department of revenue as payment for taxes imposed pursuant to chapter 422, divisions II, III, and V, and in chapter 432, and for the moneys and credits tax imposed in section 533.329, subject to any conditions or restrictions placed by the authority upon the face of the tax credit certificate and subject to the limitations of section 15E.43.

2002 Acts, ch 1006, §4, 13; 2003 Acts, ch 145, §286; 2004 Acts, ch 1148, §3, 7; 2005 Acts, ch 157, §2; 2007 Acts, ch 174, §84; 2007 Acts, ch 186, §1; 2011 Acts, ch 130, §39, 46, 47, 71

Referred to in §15E.42, 15E.45, 15E.52

[SP] 2011 amendments to subsection 2, paragraphs d and e apply retroactively to January 1, 2011, for tax years beginning and investments made on or after that date; 2011 Acts, ch 130, §47

15E.45 Community-based seed capital funds.

1. An investment in a community-based seed capital fund shall qualify for a tax credit under section 15E.43 provided that all requirements of sections 15E.43, 15E.44, and this section are met.

2. In order to be a community-based seed capital fund qualifying under this section, a community-based seed capital fund must meet all of the following criteria:

a. The fund is a limited partnership or limited liability company.

b. The fund has, on or after January 1, 2002, a total of both capital commitments from investors and investments in qualifying businesses of at least one hundred twenty-five thousand dollars, but not more than three million dollars. However, if a fund is either a rural business investment company under the rural business investment program of the federal Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, or an Iowa-based seed capital fund with at least forty percent of its committed capital subscribed by community-based seed capital funds, the fund may qualify notwithstanding having capital in excess of the limits set forth in this paragraph as long as the fund otherwise meets the requirements of this subsection.

c. The fund has no fewer than five investors who are not affiliates, with no single investor and affiliates of that investor together owning a total of more than twenty-five percent of the ownership interests outstanding in the fund.

3. *a.* In order for an investment in a community-based seed capital fund to qualify for a tax credit, the community-based seed capital fund in which the investment is made shall, within one hundred twenty days of the date of the first investment, notify the authority of all of the following:

(1) The names, addresses, equity interests issued, consideration paid for the interests, and the amount of any tax credits.

(2) All limited partners or members who may initially qualify for the tax credits.

(3) The earliest year in which the tax credits may be redeemed.

b. The list of limited partners or members who may qualify for the tax credits shall be amended as new equity interests are sold or as any information on the list shall change.

4. After verifying the eligibility of the community-based seed capital fund, the authority shall issue a tax credit certificate to be attached to the taxpayer's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the tax credit, the name of the community-based seed capital fund, and other information required by the department of revenue. The tax credit certificate, unless rescinded by the authority, shall be accepted by the department of revenue or a local taxing district, as applicable, as payment for taxes imposed pursuant to chapter 422, divisions II, III, and V, and chapter 432, and as payment for the moneys and credits tax imposed pursuant to section 533.329, subject to any conditions or restrictions placed by the authority on the face of the tax credit certificate and subject to the limitations of section 15E.43.

5. The manager of the community-based seed capital fund shall have the burden of proof to demonstrate to the authority the community-based seed capital fund's qualifications under this section, and shall have the obligation to notify the authority in a timely manner of any changes in the qualifications of the community-based seed capital fund, in the qualifications of any qualifying business in which the fund has invested, or in the eligibility of limited partners or members to redeem the investment tax credits in any year.

6. In the event that a community-based seed capital fund fails to meet or maintain any requirement set forth in this section, or in the event that at least thirty-three percent of the invested capital of the community-based seed capital fund has not been invested in one or more separate qualifying businesses, measured at the end of the forty-eighth month after commencing the fund's investing activities, the authority shall rescind any tax credit certificates issued to limited partners or members and shall notify the department of revenue that it has done so, and the tax credit certificates shall be null and void. However, a community-based seed capital fund may apply to the authority for a one-year waiver of the requirements of this subsection.

7. An investor in a community-based seed capital fund shall receive a tax credit pursuant to this division only for the investor's investment in the community-based seed capital fund and shall not receive any additional tax credit for the investor's share of investments made by the community-based seed capital fund in a qualifying business or in an Iowa-based seed capital fund with at least forty percent of its committed capital subscribed by community-based seed capital funds. However, an investor in a community-based seed capital fund may receive a tax credit under this division with respect to a separate direct investment made by the investor in the same qualifying business in which the community-based seed capital fund invests.

8. A community-based seed capital fund shall not invest in the Iowa fund of funds, if organized pursuant to section 15E.65, but may invest up to sixty percent of its committed capital in an Iowa-based seed capital fund with at least forty percent of its committed capital subscribed by community-based seed capital funds.

2002 Acts, ch 1006, §5, 13; 2003 Acts, ch 44, §10; 2003 Acts, ch 145, §286; 2003 Acts, ch 179, §98, 159; 2004 Acts, ch 1148, §5 – 7; 2005 Acts, ch 157, §3, 4; 2007 Acts, ch 174, §85; 2007 Acts, ch 186, §2; 2011 Acts, ch 118, §87, 89

Referred to in §15E.52

15E.46 Reports.

The authority shall publish an annual report of the activities conducted pursuant to this division and shall submit the report to the governor and the general assembly. The report shall include a listing of eligible qualifying businesses and the number of tax credit certificates and the amount of tax credits issued by the authority.

2002 Acts, ch 1006, §6, 13; 2011 Acts, ch 118, §87, 89

15E.47 through 15E.50 Reserved.

DIVISION VI

VENTURE CAPITAL FUND INVESTMENT TAX CREDIT — INNOVATION FUND INVESTMENT TAX CREDIT

15E.51 Venture capital fund investment tax credits. Repealed by 2010 Acts, ch 1138, § 25, 26.

[SP] Tax credit certificates issued for future tax years for investments made on or before July 1, 2010, under former section 15E.51 are valid and may be claimed by a taxpayer after July 1, 2010, in the tax year stated on the certificate; 2010 Acts, ch 1138, §26

15E.52 Innovation fund investment tax credits.

1. For purposes of this section, unless the context otherwise requires:

a. "Board" means the same as defined in section 15.102.

b. "Innovation fund" means one or more early-stage capital funds certified by the board.

c. "Innovative business" means a business applying novel or original methods to the manufacture of a product or the delivery of a service. *"Innovative business"* includes but is not limited to a business engaged in the industries of advanced manufacturing, biosciences, and information technology.

2. *a.* A tax credit shall be allowed against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.329, for a portion of a taxpayer's equity investment in the form of cash in an innovation fund.

b. An individual may claim a tax credit under this section of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

3. The amount of a tax credit allowed under this section shall equal twenty-five percent of the taxpayer's equity investment in an innovation fund.

4. A taxpayer shall not claim a tax credit under this section if the taxpayer is a venture capital investment fund allocation manager for the Iowa fund of funds created in section 15E.65 or an investor that receives a tax credit for the same investment in a qualifying business as described in section 15E.44 or in a community-based seed capital fund as described in section 15E.45.

5. *a.* To receive a tax credit, a taxpayer must submit an application to the board. The board shall issue certificates under this section on a first-come, first-served basis, which certificates may be redeemed for tax credits. The board shall issue such certificates so that not more than the amount allocated for such tax credits under section 15.119, subsection 2, may be claimed. The board shall not issue a certificate before September 1, 2014.

b. If in a fiscal year the aggregate amount of tax credits applied for exceeds the amount allocated for that fiscal year under section 15.119, subsection 2, the board shall establish a wait list for certificates. Applications that were approved but for which certificates were not issued shall be placed on the wait list in the order the applications were received by the board and shall be given priority for receiving certificates in succeeding fiscal years.

c. The board shall not issue a certificate to a taxpayer for an equity investment in an innovation fund until such fund has been certified as an innovation fund pursuant to subsection 7.

d. The board shall, in cooperation with the department of revenue, establish criteria and procedures for the allocation and issuance of tax credits by means of certificates issued by the board. The criteria shall include the contingencies that must be met for a certificate to be redeemable in order to receive a tax credit. The procedures established by the board, in cooperation with the department of revenue, shall relate to the procedures for the issuance and transfer of the certificates and for the redemption of a certificate and related tax credit.

e. A certificate and related tax credit issued pursuant to this section shall be deemed a vested right of the original holder or any transferee thereof, and the state shall not cause either to be redeemed in such a way that amends or rescinds the certificate or that curtails,

limits, or withdraws the related tax credit, except as otherwise provided in this section or upon consent of the proper holder. A certificate issued pursuant to this section cannot pledge the credit of the state and any such certificate so pledged to secure the debt of the original holder or a transferee shall not constitute a contract binding the state.

6. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

7. An innovation fund shall submit an application for certification to the board. The board shall approve the application and certify the innovation fund if all of the following criteria are met:

a. The fund is organized for the purposes of making investments in promising early-stage companies which have a principal place of business in the state.

b. The fund proposes to make investments in innovative businesses.

c. The fund seeks to secure private funding sources for investment in such businesses.

d. The fund proposes to provide multiple rounds of funding and early-stage private sector funding to innovative businesses with a high growth potential, and proposes to focus such funding on innovative businesses that show a potential to produce commercially viable products or services within a reasonable period of time.

e. The fund proposes to evaluate all prospective innovative businesses using a rigorous approach and proposes to collaborate and coordinate with the authority and other state and local entities in an effort to achieve policy consistency.

f. The fund proposes to collaborate with the regents institutions of this state and to leverage relationships with such institutions in order to potentially commercialize research developed at those institutions.

g. The fund proposes to obtain at least fifteen million dollars in binding investment commitments and to invest a minimum of fifteen million dollars in companies that have a principal place of business in the state.

8. The board shall not certify an innovation fund after June 30, 2018.

9. An innovation fund shall collect and provide to the board the information required in subsection 10, paragraphs "*e*" and "*f*", in the manner and form prescribed by the board. An innovation fund failing to comply with this subsection may have its certification revoked by the board.

10. On or before January 31 of each year, the board, in cooperation with the department of revenue, shall submit to the general assembly and the governor a report describing the activities of the innovation funds during the preceding fiscal year. The report shall at a minimum include the following information:

a. The amount of tax credit certificates issued to equity investors in each innovation fund.

b. The amount of approved tax credit applications that were placed on the wait list for certificates.

c. The amount of tax credits claimed.

d. The amount of tax credits transferred to other persons.

e. The amount of investments in each innovation fund.

f. For each investment by an innovation fund in a business:

(1) The amount of the investment.

(2) The name and industry of the business.

(3) The location or locations from which the business operates.

(4) The number of employees of the business located in Iowa and the number of employees of the business located outside Iowa on the date of the initial investment by the innovation fund in the business.

(5) The number of employees of the business located in Iowa and the number of employees of the business located outside Iowa at the close of the fiscal year which is the subject of the report.

11. Tax credit certificates issued pursuant to this section may be transferred, in whole or in part, to any person. A tax credit certificate shall only be transferred once. Within ninety days of transfer, the transferee shall submit the transferred tax credit certificate to

the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue.

12. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate. A replacement tax credit certificate may designate a different tax than the tax designated on the original tax credit certificate. A tax credit shall not be claimed by a transferee under this section until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

13. The transferee may use the amount of the tax credit transferred against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V.

2011 Acts, ch 118, §23, 36, 89; 2011 Acts, ch 130, §40, 47, 71; 2012 Acts, ch 1126, §33; 2013 Acts, ch 117, §2 – 8

Referred to in §2.48, 15.119, 15.410, 422.11Z, 422.33, 422.60, 432.12M, 533.329

[SP] Section applies retroactively to January 1, 2011, for tax years beginning and investments made on or after that date; 2011 Acts, ch 118, §36; 2011 Acts, ch 130, §47

[SP] 2013 amendments take effect May 24, 2013, and apply retroactively to January 1, 2013, for tax years beginning and equity investments in an innovation fund made on or after that date; 2013 Acts, ch 117, § 7, 8

[T] Subsections 3, 5, and 6 amended

[T] Subsection 7, NEW paragraphs d – g

[T] NEW subsections 8 – 13

15E.53 through 15E.60 Reserved.

DIVISION VII

CAPITAL INVESTMENT — IOWA FUND OF FUNDS

Referred to in §2.48, 502.102

15E.61 Findings — purpose.

1. The general assembly finds the following: Fundamental changes have occurred in national and international financial markets and in the financial markets of this state. A critical shortage of seed and venture capital resources exists in the state, and such shortage is impairing the growth of commerce in the state. A need exists to increase the availability of venture equity capital for emerging, expanding, and restructuring enterprises in Iowa, including, without limitation, enterprises in the life sciences, advanced manufacturing, information technology, alternative and renewable energy including the alternative and renewable energy sectors listed in section 476.42, subsection 1, paragraph "*a*", subparagraph (1), and value-added agriculture areas. Such investments will create jobs for Iowans and will help to diversify the state's economic base.

2. This division is enacted to fulfill the following purposes:

a. To mobilize private investment in a broad variety of venture capital partnerships in diversified industries and locales.

b. To retain the private-sector culture of focusing on rate of return in the investing process.

c. To secure the services of the best managers in the venture capital industry, regardless of location.

d. To facilitate the organization of the Iowa fund of funds in which to seek such private investment and to create interest in such investments by offering state incentives for private persons to make investments in the Iowa fund of funds.

e. To enhance the venture capital culture and infrastructure in the state of Iowa so as to

increase venture capital investment within the state and to promote venture capital investing within Iowa.

f. To accomplish these purposes in such a manner as to minimize any appropriations by the state of Iowa.

g. To effectuate specific, measurable results, including all of the following:

(1) The creation of three new venture capital fund offices in Iowa within three years of February 28, 2002.

(2) The investment of resources from the Iowa fund of funds in Iowa businesses within three years of February 28, 2002.

(3) A cumulative rate of return on venture investments of the Iowa fund of funds equal to a minimum of one and one-half percentage points above the ten-year treasury bill rate in effect at the end of five years following February 28, 2002.

2002 Acts, ch 1005, §1; 2002 Acts, ch 1006, §13, 14; 2006 Acts, ch 1142, §16; 2008 Acts, ch 1032, §201; 2011 Acts, ch 25, §127

Referred to in §15E.63

15E.62 Definitions.

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

1. *"Board"* means the Iowa capital investment board created in section 15E.63.

2. *"Certificate"* means a contract between the board and a designated investor pursuant to which a tax credit is available and issued to the designated investor.

3. *"Creditor"* means a person, including an assignee of or successor to such person, who extends credit or makes a loan to the Iowa fund of funds or to a designated investor, and includes any person who refinances such credit or loan.

4. *"Designated investor"* means a person, other than the Iowa capital investment corporation, who purchases an equity interest in the Iowa fund of funds or a transferee of a certificate or tax credit.

5. *"Fund documents"* means all agreements relating to matters under the purview of this division VII entered into prior to June 20, 2013, between or among the state, the Iowa fund of funds, a fund allocation manager or similar manager, the Iowa capital investment corporation, the board, a creditor, a designated investor, and a private seed or venture capital partnership, and includes other documents having the same force and effect between or among such parties, as any of the foregoing may be amended, modified, restated, or replaced from time to time.

6. *"Iowa capital investment corporation"* means a private, nonprofit corporation created pursuant to section 15E.64.

7. *"Iowa fund of funds"* means a private, for-profit limited partnership or limited liability company established by the Iowa capital investment corporation pursuant to section 15E.65 in which a designated investor purchases an equity interest.

8. *"Tax credit"* means a contingent tax credit issued pursuant to section 15E.66 that is available against tax liabilities imposed by chapter 422, divisions II, III, and V, and by chapter 432 and against the moneys and credits tax imposed by section 533.329.

2002 Acts, ch 1005, §2; 2002 Acts, ch 1006, §13, 14; 2007 Acts, ch 174, §87; 2013 Acts, ch 140, §129, 132

Referred to in §511.8(20b), 515.35

[T] NEW subsection 3 and former subsection 3 renumbered as 4

[T] NEW subsection 5 and former subsections 4 – 6 renumbered as 6 – 8

15E.63 Iowa capital investment board.

1. The Iowa capital investment board is created as a state governmental board and the exercise by the board of powers conferred by this division shall be deemed and held to be the performance of essential public purposes. The purpose of the board shall be to mobilize venture equity capital for investment in such a manner that will result in a significant potential to create jobs and to diversify and stabilize the economy of the state.

2. The board shall consist of five voting members and four nonvoting advisory members who are members of the general assembly. Members shall be selected based upon demonstrated expertise and competence in the supervision of investment managers, in the

fiduciary management of investment funds, or in the management and administration of tax credit allocation programs. Members shall not have an interest in any person to whom a tax credit is allocated and issued by the board.

a. The five voting members shall be appointed by the governor and confirmed by the senate pursuant to section 2.32. One nonvoting member shall be appointed by the majority leader of the senate after consultation with the president of the senate and one nonvoting member shall be appointed by the minority leader of the senate. One nonvoting member shall be appointed by the speaker of the house of representatives after consultation with the majority leader of the house of representatives and one nonvoting member shall be appointed by the minority leader of the house of representatives.

b. The five voting members shall be appointed to five-year staggered terms that shall be structured to allow the term of one member to expire each year. The nonvoting members shall serve terms as provided in section 69.16B. Vacancies shall be filled in the same manner as the appointment of the original members.

c. Members shall be compensated by the board for direct expenses and mileage but members shall not receive a director's fee, per diem, or salary for service on the board.

3. The board shall have the power to engage consultants, expend funds, invest funds, contract, bond or insure against loss, or perform any other act necessary to carry out its purpose, provided, however, that the board shall not hire employees.

4. Members of the board shall be indemnified against loss to the broadest extent permissible under chapter 669.

5. Meetings of the board shall, except to the extent necessary to protect confidential information with respect to investments in the Iowa fund of funds, be subject to chapter 21.

6. The board shall, in cooperation with the department of revenue, establish criteria and procedures for the allocation and issuance of tax credits to designated investors by means of certificates issued by the board. The criteria shall include the contingencies that must be met for a certificate to be redeemable by a designated investor or transferee in order to receive a tax credit. The contingencies to redemption shall be tied to the scheduled rates of return of equity interests purchased by designated investors in the Iowa fund of funds. The procedures established by the board, in cooperation with the department of revenue, shall relate to the procedures for the issuance of the certificates and the related tax credits, for the transfer of a certificate and related tax credit by a designated investor, and for the redemption of a certificate and related tax credit by a designated investor or transferee. The board shall also establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors and transferees, including, without limitation, criteria and procedures for evaluating the value of investments made by the Iowa fund of funds and the returns from the Iowa fund of funds.

7. Pursuant to section 15E.66, the board shall issue certificates which may be redeemable for tax credits to provide incentives to designated investors to make equity investments in the Iowa fund of funds. The board shall issue the certificates so that not more than twenty million dollars of tax credits may be initially redeemable in any fiscal year. The board shall indicate on the tax certificate the principal amount of the tax credit and the date or dates on which the credit may be first claimed.

8. The board may charge a placement fee to the Iowa fund of funds with respect to the issuance of a certificate and related tax credit to a designated investor, but the fee shall be charged only to pay for reasonable and necessary costs of the board and shall not exceed one-half of one percent of the equity investment of the designated investor.

9. The board shall, in consultation with the Iowa capital investment corporation, publish an annual report of the activities conducted by the Iowa fund of funds, and present the report to the governor and the general assembly. The annual report shall include a copy of the audit of the Iowa fund of funds and a valuation of the assets of the Iowa fund of funds, review the progress of the investment fund allocation manager in implementing its investment plan, and describe any redemption or transfer of a certificate issued pursuant to this division, provided, however, that the annual report shall not identify any specific designated investor who has redeemed or transferred a certificate. Every five years, the board shall publish a progress

report which shall evaluate the progress of the state of Iowa in accomplishing the purposes stated in section 15E.61.

10. The board shall redeem a certificate submitted to the board by a designated investor and shall calculate the amount of the allowable tax credit based upon the investment returns received by the designated investor and its predecessors in interest and the provisions of the certificate. Upon submission of a certificate for redemption, the board shall issue a verification to the department of revenue setting forth the maximum tax credit which may be claimed by the designated investor with respect to the redemption of the certificate.

11. The board shall adopt rules pursuant to chapter 17A necessary to administer the duties of the board.

2002 Acts, ch 1005, §3; 2002 Acts, ch 1006, §13, 14; 2003 Acts, ch 145, §286; 2005 Acts, ch 7, §1, 4; 2008 Acts, ch 1156, §18, 58; 2009 Acts, ch 41, §16

Referred to in §15.117A, 15E.62

15E.64 Iowa capital investment corporation.

1. An Iowa capital investment corporation may be organized as a private, not-for-profit corporation under chapter 504. The Iowa capital investment corporation is not a public corporation or instrumentality of the state and shall not enjoy any of the privileges and shall not be required to comply with the requirements of a state agency. Except as otherwise provided in this division, this division does not exempt the corporation from the requirements under state law which apply to other corporations organized under chapter 504. The purposes of an Iowa capital investment corporation shall be to organize the Iowa fund of funds, to select a venture capital investment fund allocation manager to select venture capital fund investments by the Iowa fund of funds, to negotiate the terms of a contract with the venture capital investment fund allocation manager, to execute the contract with the selected venture capital investment fund allocation manager on behalf of the Iowa fund of funds, to receive investment returns from the Iowa fund of funds, and to reinvest the investment returns in additional venture capital investments designed to result in a significant potential to create jobs and to diversify and stabilize the economy of the state. The corporation shall not exercise governmental functions and shall not have members. The obligations of the corporation are not obligations of this state or any political subdivision of this state within the meaning of any constitutional or statutory debt limitations, but are obligations of the corporation payable solely and only from the corporation's funds. The corporation shall not and cannot pledge the credit or taxing power of this state or any political subdivision of this state or make its debts payable out of any moneys except those of the corporation.

2. To facilitate the organization of an Iowa capital investment corporation, both of the following persons shall serve as incorporators as provided in section 504.201:

a. The chairperson of the economic development authority board or a designee of the chairperson.

b. The director of the economic development authority or a designee of the director.

3. After incorporation, the initial board of directors shall be elected by the members of an appointment committee. The members of the appointment committee shall be appointed by the economic development authority. The initial board of directors shall consist of five members. The persons elected to the initial board of directors by the appointment committee shall include persons who have an expertise in the areas of the selection and supervision of investment managers or in the fiduciary management of investment funds, and other areas of expertise as deemed appropriate by the appointment committee. After the election of the initial board of directors, vacancies in the board of directors of the corporation shall be elected by the remaining directors of the corporation. Members of the board of directors shall be subject to any restrictions on conflicts of interest specified in the organizational documents and shall have no interest in any venture capital investment fund allocation manager selected by the corporation pursuant to the provisions of this division or in any investments made by the Iowa fund of funds.

4. The members of the appointment committee shall exercise due care to assure that persons elected to the initial board of directors have the requisite financial experience necessary in order to carry out the duties of the corporation as established in this division,

including in areas related to venture capital investment, investment management, and supervision of investment managers and investment funds.

5. Upon the election of the initial board of directors, the terms of the members of the appointment committee shall expire.

6. The economic development authority shall assist the incorporators and the appointment committee in any manner determined necessary and appropriate by the incorporators and appointment committee in order to administer this section.

7. After incorporation, the Iowa capital investment corporation shall conduct a national solicitation for investment plan proposals from qualified venture capital investment fund allocation managers for the raising and investing of capital by the Iowa fund of funds in accordance with the requirements of this division. Any proposed investment plan shall address the applicant's level of experience, quality of management, investment philosophy and process, probability of success in fund-raising, prior investment fund results, and plan for achieving the purposes of this division. The selected venture capital investment fund allocation manager shall be a person with substantial, successful experience in the design, implementation, and management of seed and venture capital investment programs and in capital formation. The corporation shall only select a venture capital investment fund allocation manager with demonstrated expertise in the management and fund allocation of investments in venture capital funds. The corporation shall select the venture capital investment fund allocation manager deemed best qualified to generate the amount of capital required by this division and to invest the capital of the Iowa fund of funds.

8. The Iowa capital investment corporation may charge a management fee on assets under management in the Iowa fund of funds. The fee shall be in addition to any fee charged to the Iowa fund of funds by the venture capital investment fund allocation manager selected by the corporation, but the fee shall be charged only to pay for reasonable and necessary costs of the Iowa capital investment corporation and shall not exceed one-half of one percent per year of the value of assets under management.

9. Directors of the Iowa capital investment corporation shall be compensated for direct expenses and mileage but shall not receive a director's fee or salary for service as directors.

10. The Iowa capital investment corporation shall have the power to engage consultants, expend funds, invest funds, contract, bond or insure against loss, or perform any other act necessary to carry out its purpose. However, the corporation shall not hire staff as employees except to administer the rural and small business loan guarantee program of the Iowa fund of funds.

11. Upon the dissolution of the Iowa fund of funds, the Iowa capital investment corporation shall be liquidated and dissolved, and any assets owned by the corporation shall be distributed to the state of Iowa and deposited in the general fund.

2002 Acts, ch 1005, §4; 2002 Acts, ch 1006, §13, 14; 2002 Acts, ch 1175, §77; 2004 Acts, ch 1049, §181, 191, 192; 2004 Acts, ch 1175, §393; 2011 Acts, ch 118, §58, 59, 84, 85, 89; 2012 Acts, ch 1021, §18

Referred to in §15E.62, 15E.65, 15E.72

15E.65 Iowa fund of funds.

1. The Iowa capital investment corporation shall organize the Iowa fund of funds. The Iowa fund of funds shall be authorized to make investments in private seed and venture capital partnerships or entities in a manner which will encourage the availability of a wide variety of venture capital in the state, strengthen the economy of the state, help business in Iowa gain access to sources of capital, help build a significant, permanent source of capital available to serve the needs of Iowa businesses, and accomplish all these benefits in a way that minimizes the use of tax credits.

2. The Iowa capital investment corporation shall organize the Iowa fund of funds in the following manner:

a. The Iowa fund of funds shall be organized as a private, for-profit, limited partnership or limited liability company under Iowa law pursuant to which the Iowa capital investment corporation shall be the general partner or manager. The entity shall be organized so as to provide for equity interests for designated investors which provide for a designated scheduled

rate of return. The interest of the Iowa capital investment corporation in the Iowa fund of funds shall be to serve as general partner or manager and to be paid a management fee for the service as provided in section 15E.64, subsection 8, and to receive investment returns of the Iowa fund of funds in excess of those payable to designated investors. Any returns in excess of those payable to designated investors shall be reinvested by the Iowa capital investment corporation by being held in the Iowa fund of funds as a revolving fund for reinvestment in venture capital funds or investments until the termination of the Iowa fund of funds. Any returns received from these reinvestments shall be deposited in the revolving fund.

b. The Iowa fund of funds shall principally make investments in high-quality venture capital funds managed by investment managers who have made a commitment to consider equity investments in businesses located within the state of Iowa and which have committed to maintain a physical presence within the state of Iowa. The investments by the Iowa fund of funds shall be focused principally on partnership interests in private venture capital funds and not in direct investments in individual businesses. The Iowa fund of funds shall invest in venture capital funds with experienced managers or management teams with demonstrated expertise and a successful history in the investment of venture capital funds. The Iowa fund of funds may invest in newly created venture capital funds as long as the managers or management teams of the funds have the experience, expertise, and a successful history in the investment of venture capital funds described in this paragraph.

c. The Iowa fund of funds shall establish and administer a program to provide loan guarantees and other related credit enhancements on loans to rural and small business borrowers within the state of Iowa. The Iowa fund of funds shall invest five percent of its assets in investments for this program.

d. The Iowa fund of funds shall have the power to engage consultants, expend funds, invest funds, contract, bond or insure against loss, or perform any other act necessary to carry out its purpose, including, without limitation, engaging and agreeing to compensate a venture capital investment fund allocation manager. Such compensation shall be in addition to the management fee paid to the Iowa capital investment corporation. However, the Iowa fund of funds shall not hire employees except to administer its rural and small business loan guarantee and credit enhancement program.

e. The Iowa fund of funds may issue debt and borrow such funds as may be needed to accomplish its goals. However, such debt shall not be secured by tax credits issued by the board. The Iowa fund of funds may open and manage bank and short-term investment accounts as deemed necessary by the venture capital investment fund allocation manager.

f. The Iowa fund of funds may expend moneys to secure investment ratings for investments by designated investors in the Iowa fund of funds.

g. Each calendar year, the auditor of state shall conduct an annual audit of the activities of the Iowa fund of funds or shall engage an independent auditor to conduct the audit, provided that the independent auditor has no business, contractual, or other connection to the Iowa capital investment corporation or the Iowa fund of funds. The corporation shall reimburse the auditor of state for costs associated with the annual audit. The audit shall be delivered to the Iowa capital investment corporation and the board each year and shall include a valuation of the assets owned by the Iowa fund of funds as of the end of each year.

h. As soon as practicable after June 20, 2013, the Iowa capital investment corporation, in conjunction with the department of revenue, the board, and the attorney general, shall wind up the Iowa fund of funds pursuant to section 15E.72 and shall cause the Iowa fund of funds to be liquidated with all of its assets distributed to its owners in accordance with the provisions of its organizational documents and in accordance with the fund documents. In liquidating such assets, the capital investment corporation, the department of revenue, the board, and the attorney general shall act with prudence and caution in order to minimize costs and fees and to preserve investment assets to the extent reasonably possible.

i. Upon the liquidation of the Iowa fund of funds, the Iowa capital investment corporation

shall file a report with the general assembly stating how many jobs in this state were created through investments made by the Iowa fund of funds.

2002 Acts, ch 1005, §5; 2002 Acts, ch 1006, §13, 14; 2005 Acts, ch 7, §2, 4; 2013 Acts, ch 140, §130, 132

Referred to in §15E.45, 15E.52, 15E.62, 15E.72
[T] Subsection 2, paragraph h amended

15E.66 Certificates and tax credits.

1. The board may issue certificates and related tax credits to designated investors which, if redeemed for the maximum possible amount, shall not exceed a total aggregate of sixty million dollars of tax credits. The certificates shall be issued contemporaneously with a commitment to invest in the Iowa fund of funds by a designated investor. A certificate issued by the board shall have a specific maturity date or dates designated by the board and shall be redeemable only in accordance with the contingencies reflected on the certificate or incorporated therein by reference. A certificate and the related tax credit shall be transferable by the designated investor. A tax credit shall not be claimed or redeemed except by a designated investor or transferee in accordance with the terms of a certificate from the board. A tax credit shall not be claimed for a tax year that begins earlier than the maturity date or dates stated on the certificate. An individual may claim the credit of a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust. Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the tax liability for the following seven years, or until depleted, whichever is earlier.

2. The board shall certify the maximum amount of a tax credit which could be issued to a designated investor and identify the specific earliest date or dates the certificate may be redeemed pursuant to this division. The amount of the tax credit shall be limited to an amount equivalent to any difference between the scheduled aggregate return to the designated investor at rates of return authorized by the board and aggregate actual return received by the designated investor and any predecessor in interest of capital and interest on the capital. The rates, whether fixed rates or variable rates, shall be determined pursuant to a formula stipulated in the certificate or incorporated therein by reference. The board shall clearly indicate on the certificate, or incorporate therein by reference, the schedule, the amount of equity investment, the calculation formula for determining the scheduled aggregate return on invested capital, and the calculation formula for determining the amount of the tax credit that may be claimed. Once issued to a designated investor, a certificate shall be binding on the board and the department of revenue and shall not be modified, terminated, or rescinded.

3. If a designated investor or transferee elects to redeem a certificate, the certificate shall not be redeemed prior to the maturity date or dates stated on the certificate. At the time of redemption, the board shall determine the amount of the tax credit that may be claimed by the designated investor based upon the returns received by the designated investor and its predecessors in interest and the provisions of the certificate. The board shall issue a verification to the department of revenue setting forth the maximum tax credit which can be claimed by the designated investor with respect to the redemption of the certificate.

4. The board shall, in conjunction with the department of revenue, develop a system for registration of any certificate and related tax credit issued or transferred pursuant to this section and a system that permits verification that any tax credit claimed upon a tax return is valid and that any transfers of the certificate and related tax credit are made in accordance with the requirements of this division.

5. The board shall issue the tax credits in such a manner that not more than twenty million dollars of tax credits may be initially redeemable in any fiscal year. The board shall indicate on the tax certificate the principal amount of the tax credit and the maturity date or dates on which the credit may be first claimed.

6. A certificate or tax credit issued or transferred pursuant to this division shall not be considered a security pursuant to chapter 502.

7. In determining the maximum aggregate limit in subsection 1 and the fiscal year limitation in subsection 5, the board shall use the cumulative amount of scheduled aggregate returns on certificates issued by the board to designated investors. However, certificates and related tax credits which have expired shall not be included and certificates and related tax credits which have been redeemed shall be included only to the extent of tax credits actually allowed.

2002 Acts, ch 1005, §6; 2002 Acts, ch 1006, §13, 14; 2003 Acts, ch 145, §286; 2005 Acts, ch 7, §3, 4; 2010 Acts, ch 1138, §20, 21

Referred to in §15E.62, 15E.63, 422.11Q, 422.33, 422.60, 432.12I, 533.329

15E.67 Powers and effectiveness.

This division shall not be construed as a restriction or limitation upon any power which the board might otherwise have under any other law of this state and the provisions of this division are cumulative to such powers. This division shall be construed to provide a complete, additional, and alternative method for performing the duties authorized and shall be regarded as supplemental and additional to the powers conferred by any other law. The level, timing, or degree of success of the Iowa fund of funds or the investment funds in which the Iowa fund of funds invests in, or the extent to which the investment funds are invested in Iowa venture capital projects, or are successful in accomplishing any economic development objectives, shall not compromise, diminish, invalidate, or affect the provisions of any contract entered into by the board or the Iowa fund of funds.

2002 Acts, ch 1005, §7; 2002 Acts, ch 1006, §13, 14; 2003 Acts, ch 44, §12

15E.68 Permissible investments.

Investments by designated investors in the Iowa fund of funds shall be deemed permissible investments for state-chartered banks, for credit unions, and for domestic insurance companies under applicable state laws.

2002 Acts, ch 1005, §8; 2002 Acts, ch 1006, §13, 14

[P] Insurance companies; §511.8, 515.35

[P] Banks; §524.901

[P] Credit unions; §533.304

15E.69 Enforcement.

The attorney general may enforce the provisions of this division and conduct any investigations necessary for such enforcement.

2002 Acts, ch 1005, §9; 2002 Acts, ch 1006, §13, 14

15E.70 Financial statements — auditor of state.

By July 1 of each year, the Iowa fund of funds, the Iowa capital investment corporation, and designated investors shall submit a financial statement for the previous calendar year to the auditor of state.

2009 Acts, ch 179, §193

15E.71 Executive council action.

Notwithstanding section 7D.29, subsection 1, the executive council in full consultation with the attorney general, and with the agreement of the attorney general, shall take any action deemed necessary to protect the interests of the state with respect to any certificates, tax credits, entities created, or action taken in relation to this division. Such actions may include but are not limited to initiation of legal action, commencement of special investigations, institution of special audits of any involved entity, or establishment of receiverships. If such action is taken, the council may incur the necessary expense to perform such a duty or cause such a duty to be performed, and pay the same out of any money in the state treasury not otherwise appropriated.

2012 Acts, ch 1138, §15

15E.72 Program wind-up and future repeal.

1. *Organization of additional funds prohibited.* Notwithstanding section 15E.65, an Iowa fund of funds shall not be organized on or after June 20, 2013.

2. *New investments by the fund of funds prohibited.* Notwithstanding section 15E.65, the Iowa fund of funds shall not make new investments in private seed and venture capital partnerships or entities on or after June 20, 2013, except as required by the fund documents.

3. *New investments by designated investors prohibited.*

a. Except as provided in paragraph *"b"*, and notwithstanding any other provision in this division VII, a designated investor shall not invest in the Iowa fund of funds on or after June 20, 2013.

b. Notwithstanding the prohibition in paragraph *"a"*, a designated investor may invest in the Iowa fund of funds on or after June 20, 2013, to the extent such investment is required by the fund documents. In addition, the director of revenue, with the approval of the attorney general, may authorize additional investment in the Iowa fund of funds but only if such an investment is necessary to preserve fund assets, repay creditors, pay taxes, or otherwise effectuate an orderly wind-up of the program pursuant to this section.

4. *Issuance, verification, and redemption of new certificates prohibited.*

a. Except as provided in paragraph *"b"*, and notwithstanding any other provision in this division VII, the board shall not issue, verify, or redeem a certificate or a related tax credit on or after June 20, 2013.

b. Notwithstanding the prohibition in paragraph *"a"*, the board may issue, redeem, or verify a certificate or a related tax credit under any of the following conditions:

(1) The board is required to do so under the terms of the fund documents.

(2) The issuance, redemption, or verification is deemed necessary by the director of revenue and the attorney general in order to arrange new financing terms with a creditor.

(3) The issuance, redemption, or verification is deemed necessary by the director of revenue and the attorney general to preserve fund assets, repay creditors, or otherwise effectuate an orderly wind-up of the program pursuant to this section.

5. *New fund allocation managers prohibited.*

a. Notwithstanding any other provision in this division VII, the Iowa capital investment corporation shall not have authority to solicit, select, terminate, or change a fund allocation manager or similar manager on or after June 20, 2013.

b. On or after June 20, 2013, all decisions pertaining to relationships with a fund allocation manager or similar manager selected prior to June 20, 2013, shall be made by the director of revenue with the approval of the attorney general. This subsection shall not be construed to impair the terms of the fund documents.

6. *Pledging of certificates prohibited.*

a. Except as provided in paragraph *"b"*, and notwithstanding any other provision of law to the contrary, a certificate and a related tax credit or verified tax credit issued by the board shall not be pledged by a designated investor as security for a loan or an extension of credit on or after June 20, 2013.

b. Notwithstanding the prohibition in paragraph *"a"*, a certificate and related tax credit or verified tax credit issued by the board may be pledged by a designated investor as security for a loan or an extension of credit to the extent such pledge is required by the fund documents. In addition, the board, with the approval of the director of revenue and the attorney general, may authorize a certificate and related tax credit to be pledged as security for a loan or an extension of credit, but only if such a pledge is necessary to arrange new financing terms with a creditor or to repay creditors for moneys loaned or credit extended to a designated investor.

7. *Rural and small business loan guarantees prohibited.* Notwithstanding any other provision in this division VII to the contrary, the Iowa capital investment corporation shall not make rural and small business loan guarantees or otherwise administer a program to provide loan guarantees and other related credit enhancements on loans to rural and small business borrowers within the state of Iowa on or after June 20, 2013.

8. *Iowa capital investment corporation purposes amended.* Notwithstanding section 15E.64, on or after June 20, 2013, the purposes of the Iowa capital investment corporation shall be to comply with its obligations under the fund documents and to assist the board,

the director of revenue, and the attorney general in effectuating the orderly wind-up of the Iowa fund of funds. In effectuating such a wind-up, the Iowa capital investment corporation shall comply with all reasonable requests by the board, the director of revenue, the attorney general, or the auditor of state.

9. *Use of revolving fund prohibited.*

a. Notwithstanding section 15E.65, subsection 2, paragraph "*a*", on or after June 20, 2013, all investment returns received by the Iowa capital investment corporation that are in excess of those payable to designated investors shall be deposited in the general fund of the state.

b. This subsection shall not be construed to impair the terms of the fund documents. It is the intent of the general assembly that this subsection only applies in the event that there are investment returns in excess of those necessary to repay creditors and designated investors under the terms of the fund documents.

10. *Preservation of existing rights.* This section is not intended to and shall not limit, modify, or otherwise adversely affect the fund documents, including any certificate, verified tax credit, or related tax credit issued before June 20, 2013, or limit, modify, or otherwise adversely affect the redemption of any tax credit, verified tax credit, or certificate.

11. *Future repeal.* This division VII is repealed upon the occurrence of one of the following, whichever is earlier:

a. The expiration or termination of all fund documents. The director of revenue shall notify the Iowa Code editor upon the occurrence of this condition.

b. December 31, 2027.

2013 Acts, ch 140, §131, 132
Referred to in §15E.65
[T] NEW section

15E.73 through 15E.80 Reserved.

DIVISION VIII

IOWA SEED CAPITAL CORPORATION

15E.81 through 15E.85 Repealed by 2001 Acts, ch 61, § 19.

15E.86 Repealed by 98 Acts, ch 1225, § 39.

15E.87 through 15E.94 Repealed by 2001 Acts, ch 61, § 19.

15E.95 through 15E.105 Reserved.

DIVISION IX

IOWA EXPORT TRADING COMPANY

15E.106 through 15E.108 Repealed by 2001 Acts, ch 61, § 19.

15E.109 and 15E.110 Reserved.

DIVISION X

VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES — ASSISTANCE

15E.111 and 15E.112 Repealed by 2009 Acts, ch 123, § 8.

15E.113 through 15E.115 Reserved.

DIVISION XI

IOWA WINE AND BEER PROMOTION

15E.116 Iowa wine and beer promotion board.

An Iowa wine and beer promotion board is created. The board consists of three members appointed by the director of the economic development authority. Each member shall serve a term of two years on the board. One member shall represent the authority, one member shall represent the Iowa wine makers, and one member shall represent the Iowa beer makers. The board shall advise the authority on the best means to promote wine and beer made in Iowa.

86 Acts, ch 1246, §719
C87, §28.116
C93, §15E.116
2011 Acts, ch 118, §85, 89

15E.117 Promotion of Iowa wine and beer.

1. The economic development authority shall consult with the Iowa wine and beer promotion board on the best means to promote wine and beer made in Iowa.
2. The authority has the authority to contract with private persons for the promotion of beer and wine made in Iowa.
3. Moneys appropriated to the authority pursuant to sections 123.143 and 123.183 may be used by the authority for the purposes of this section, including administrative expenses incurred under this section.

86 Acts, ch 1246, §720
C87, §28.117
C93, §15E.117
2002 Acts, ch 1050, §6; 2003 Acts, ch 145, §286; 2010 Acts, ch 1188, §23; 2011 Acts, ch 118, §85, 89; 2011 Acts, ch 130, §27, 71
Referred to in §123.143, 123.183

15E.118 and 15E.119 Reserved.

DIVISION XII

LOAN REPAYMENTS

15E.120 Loan repayments.

1. Cities which have received loans under the former Iowa community development loan program, sections 7A.41 through 7A.49, Code 1985, are still obligated to repay borrowed funds to the state and to comply with terms and conditions of existing promissory notes.
2. After July 1, 1986, loan repayments made by recipient cities are payable to the Iowa department of economic development in an amount and at the time required by existing promissory notes.
3. Loan agreements with cities receiving loans under the former Iowa community development loan program for projects which have not been completed as of July 1, 1986, shall be amended by substituting "Iowa department of economic development" for "office for planning and programming". The Iowa department of economic development shall assume the state's administrative responsibilities for these uncompleted projects.
4. All loan agreements and promissory notes with cities with completed projects shall, on July 1, 1986, be amended by substituting "Iowa department of economic development" for "office for planning and programming".
5. Loan repayments received by the Iowa department of economic development shall be deposited into a special account to be used at its discretion as matching funds to attract financial assistance from and to participate in programs with national rural development and finance corporations. Funds in this special account shall not revert to the state general fund

at the end of any fiscal year. If the programs for which the funds in the special account are to be used are terminated or expire, the funds in the special account and funds that would be repaid, if any, to the special account shall be transferred or repaid to the strategic investment fund established in section 15.313.

6. On July 1, 2011, the economic development authority shall assume responsibility for the administration of this section.

86 Acts, ch 1185, §1
C87, §28.120
90 Acts, ch 1262, §28; 91 Acts, ch 23, §12; 91 Acts, ch 264, §512; 91 Acts, ch 267, §313
C93, §15E.120
95 Acts, ch 67, §5; 2001 Acts, ch 61, §8; 2003 Acts, ch 71, §5; 2009 Acts, ch 123, §26; 2011 Acts, ch 118, §60, 89; 2012 Acts, ch 1021, §19, 141, 144
Referred to in §384.4
[SP] Temporary appropriation of all moneys available from deposits made pursuant to subsection 5; 2011 Acts, ch 130, §6, 53, 71

15E.121 through 15E.130 Reserved.

DIVISION XIII

BUSINESS DEVELOPMENT FINANCE

15E.131 through 15E.149 Repealed by 2007 Acts, ch 126, § 114.

15E.150 and 15E.151 Reserved.

DIVISION XIV

RESERVED

15E.152 through 15E.166 Reserved.

DIVISION XV

IOWA BUSINESS INVESTMENT CORPORATION

15E.167 and 15E.168 Reserved.

15E.169 through 15E.171 Repealed by 2001 Acts, ch 61, § 19.

15E.172 through 15E.174 Reserved.

DIVISION XVI

PHYSICAL INFRASTRUCTURE ASSISTANCE

15E.175 Physical infrastructure assistance program. Repealed by 2009 Acts, ch 123, § 8.

15E.176 through 15E.180 Reserved.

DIVISION XVII

IOWA CAPITAL INVESTMENT BOARD

15E.181 through 15E.184 Repealed by 2001 Acts, ch 61, § 19.

15E.185 through 15E.190 Reserved.

DIVISION XVIII

ENTERPRISE ZONES

Referred to in §2.48, 15J.4

15E.191 Intent.

It is the intent of the general assembly that this division be administered in a manner to promote new economic development in economically distressed areas by encouraging communities to target resources in ways that attract productive private investment.

97 Acts, ch 144, §1
Referred to in §15.119

15E.192 Enterprise zones.

1. A county may create an economic development enterprise zone as authorized in this division, subject to certification by the economic development authority, by designating up to one percent of the county area for that purpose. An eligible county containing a city whose boundaries extend into an adjacent county may establish an enterprise zone in an area of the city located in the adjacent county if the adjacent county's board of supervisors adopts a resolution approving the establishment of the enterprise zone in the city and the two counties enter into an agreement pursuant to chapter 28E regarding the establishment of the enterprise zone. A county may establish more than one enterprise zone.

2. A city which includes at least three census tracts with at least fifty percent of the population in each census tract located in the city, as shown by the 2000 certified federal census, may create an economic development enterprise zone as authorized in this division, subject to certification by the economic development authority, by designating one or more contiguous census tracts, as determined in the most recent federal census, or designating other geographic units approved by the economic development authority for that purpose. If there is an area in the city which meets the requirements for eligibility for an urban or rural enterprise community under Tit. XIII of the federal Omnibus Budget Reconciliation Act of 1993, such area shall be designated by the state as an economic development enterprise zone. The area meeting the requirements for eligibility for an urban or rural enterprise community shall not be included for the purpose of determining the area limitation pursuant to subsection 4. In creating an enterprise zone, a city which includes at least three census tracts with at least fifty percent of the population in each census tract located in the city, as shown by the 2000 certified federal census, may designate as part of the area tracts or approved geographic units located in a contiguous city if such tracts or approved geographic units meet the criteria and the city agrees to being included. The city may establish more than one enterprise zone. Reference in this division to "*city*" means a city which includes at least three census tracts with at least fifty percent of the population in each census tract located in the city, as shown by the 2000 certified federal census.

3. A city may create an economic development enterprise zone as authorized in this division, subject to certification by the economic development authority, by designating up to four square miles of the city for that purpose. In order for an enterprise zone to be certified pursuant to this subsection, an enterprise zone shall meet the distress criteria provided in section 15E.194, subsection 3. Section 15E.194, subsection 2, shall not apply to an enterprise zone certified pursuant to this subsection. For purposes of this subsection and section 15E.194, subsection 3, "*city*" means a city that includes at least three census tracts, as determined in the most recent federal census.

4. *a.* An enterprise zone certified by the authority pursuant to subsection 2 shall only be amended if the amendment consists of an area being added to the enterprise zone and the added area meets the criteria of section 15E.194, subsection 2. An enterprise zone certified by the authority pursuant to subsection 1 or 2 may be decertified; however, if a subsequent enterprise zone is designated, the expiration date of the subsequent enterprise zone shall be the same as the expiration date of the decertified enterprise zone. A portion of a certified enterprise zone may be decertified, provided that the remaining portion of the certified enterprise zone meets the distress criteria provided in section 15E.194.

b. A county or city may apply to the authority for an area to be certified as an enterprise zone at any time prior to July 1, 2014. However, the total amount of land designated as enterprise zones under subsection 1, and any other enterprise zones certified by the authority, excluding those approved pursuant to subsection 2 and section 15E.194, subsections 3 and 5, shall not exceed in the aggregate one percent of the total county area.

5. An enterprise zone designation shall remain in effect for ten years following the date of certification. Prior to the expiration of an enterprise zone designation, a city or county meeting the distress criteria in section 15E.194 may apply for a one-time ten-year extension of the designation. In applying for a one-time ten-year extension of an enterprise zone designation, a city or county may redefine the boundaries of the enterprise zone provided that the redefined enterprise zone meets the applicable distress criteria provided in section 15E.194. Prior to the expiration of an enterprise zone designation, a city or county that is not eligible to designate an enterprise zone but previously designated the enterprise zone pursuant to section 15E.194, Code Supplement 1997, may apply for a one-time extension of the enterprise zone designation to one year following the complete publication of the 2010 federal census. In applying for a one-time extension of the enterprise zone designation, the city or county may redefine the boundaries of the enterprise zone provided that the redefined enterprise zone meets the distress criteria provided in section 15E.194, Code Supplement 1997. The authority shall designate by rule the specific date of one year following the complete publication of the 2010 federal census. Any state or local incentives or assistance that may be conferred must be conferred before the designation expires. However, the benefits of the incentive or assistance may continue beyond the expiration.

97 Acts, ch 144, §2; 98 Acts, ch 1175, §6; 2000 Acts, ch 1213, §3, 4, 10; 2002 Acts, ch 1145, §1, 7, 10; 2003 Acts, ch 129, §1, 5 – 7; 2005 Acts, ch 57, §1; 2006 Acts, ch 1133, §1 – 4, 10; 2007 Acts, ch 126, §6; 2010 Acts, ch 1061, §180; 2010 Acts, ch 1136, §1, 2; 2011 Acts, ch 118, §85, 89; 2012 Acts, ch 1018, §4

Referred to in §15.119, 15E.194

15E.193 Eligible business.

1. A business which is or will be located, in whole or in part, in an enterprise zone is eligible to receive incentives and assistance under this division if the business has not closed or reduced its operation in one area of the state and relocated substantially the same operation into the enterprise zone and if the business meets all of the following requirements:

a. Is not a retail business or a business where entrance is limited by a cover charge or membership requirement.

b. (1) The business shall provide a sufficient package of benefits to each employee holding a created or retained job. For purposes of this paragraph, *"created job"* and *"retained job"* have the same meaning as defined in section 15.327.

(2) The authority shall adopt rules determining what constitutes a sufficient package of benefits.

c. The business shall pay a wage that is at least ninety percent of the qualifying wage threshold. For purposes of this paragraph, *"qualifying wage threshold"* has the same meaning as defined in section 15.327.

d. Creates or retains at least ten full-time equivalent positions and maintains them until the maintenance period completion date. For purposes of this paragraph, *"maintenance period completion date"* and *"full-time equivalent position"* have the same meanings as defined in section 15.327.

e. Makes a capital investment of at least five hundred thousand dollars.

f. If the business is only partially located in an enterprise zone, the business must be located on contiguous parcels of land.

2. In addition to meeting the requirements under subsection 1, an eligible business shall provide the enterprise zone commission with all of the following:

a. The long-term strategic plan for the business which shall include labor and infrastructure needs.

b. Information dealing with the benefits the business will bring to the area.

c. Examples of why the business should be considered or would be considered a good business enterprise.

d. The impact the business will have on other businesses in competition with it. The enterprise zone commission shall make a good-faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for assistance. The enterprise zone commission shall make a good-faith effort to determine the probability that the proposed financial assistance will displace employees of the existing businesses. In determining the impact on businesses in competition with the business being considered for assistance, jobs created or retained as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created or retained.

e. A report describing all violations of environmental law or worker safety law within the last five years. If, upon review of the application, the enterprise zone commission finds that a business has a record of violations of the law, statutes, rules, or regulations that tends to show a consistent pattern, the enterprise zone commission shall not make an award of financial assistance to the business unless the authority finds either that the violations did not seriously affect public health, public safety, or the environment, or, if such violations did seriously affect public health, public safety, or the environment, that mitigating circumstances were present.

3. If a business has received incentives or assistance under section 15E.196 and fails to maintain the requirements of subsection 1 to be an eligible business, the business is subject to repayment of all or a portion of the incentives and assistance that it has received. The city or county, as applicable, shall have the authority to take action to recover the value of taxes not collected as a result of the exemption provided by the community to the business. The department of revenue shall have the authority to recover the value of state taxes or incentives provided under section 15E.196. The value of state incentives provided under section 15E.196 includes applicable interest and penalties. The economic development authority and the city and county, as applicable, shall enter into agreement with the business specifying the method for determining the amount of incentives or assistance paid which will be repaid in the event of failure to maintain the requirements of subsection 1. In addition, a business that fails to maintain the requirements of subsection 1 shall not receive incentives or assistance for each year during which the business is not in compliance.

4. If a business that is approved to receive incentives or assistance provided under section 15E.196 experiences a layoff within the state or closes any of its facilities within the state prior to receiving the incentives and assistance, the authority may reduce or eliminate all or a portion of the incentives and assistance. If a business has received incentives or assistance under section 15E.196 and experiences a layoff within the state or closes any of its facilities within the state after receiving the incentives and assistance, the business may be subject to repayment of all or a portion of the incentives and assistance that it has received.

97 Acts, ch 144, §3; 98 Acts, ch 1175, §7 – 9; 2003 Acts, ch 129, §2; 2003 Acts, ch 145, §286; 2006 Acts, ch 1009, §1 – 3; 2007 Acts, ch 126, §7; 2009 Acts, ch 123, §17; 2011 Acts, ch 118, §85, 87, 89; 2012 Acts, ch 1021, §20; 2012 Acts, ch 1126, §16, 17

Referred to in §15.119, 15E.193B, 15E.194, 15E.195

[P] For aggregate limitations on amount of tax credits, see §15.119

15E.193A Alternative eligible business criteria. Repealed by 2002 Acts, ch 1145, § 9.

15E.193B Eligible housing business.

1. A housing business qualifying under this section is eligible to receive incentives and assistance only as provided in this section. An eligible housing business shall not receive incentives or assistance for a home or multiple dwelling unit built or rehabilitated in an

enterprise zone designated pursuant to section 15E.194, subsection 3 or 5. Sections 15E.193 and 15E.196 do not apply to an eligible housing business qualifying under this section.

2. An eligible housing business under this section includes a housing developer, housing contractor, or nonprofit organization that builds or rehabilitates a minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone.

3. The single-family homes and dwelling units which are rehabilitated or constructed by the eligible housing business shall include the necessary amenities. When completed and made available for occupancy, the single-family homes and dwelling units shall meet the United States department of housing and urban development's housing quality standards and local safety standards.

4. The eligible housing business shall complete its building or rehabilitation within two years from the time the business begins construction on the single-family homes and dwelling units. The failure to complete construction or rehabilitation within two years shall result in the eligible housing business becoming ineligible and subject to the repayment requirements and penalties enumerated in subsection 7. The authority may extend the prescribed two-year completion period for any current or future project which has not been completed if the authority determines that completion within the two-year period is impossible or impractical as a result of a substantial loss caused by flood, fire, earthquake, storm, or other catastrophe. For purposes of this subsection, *"substantial loss"* means damage or destruction in an amount in excess of thirty percent of the project's expected eligible basis as set forth in the eligible housing business's application.

5. An eligible housing business shall provide the enterprise zone commission with all of the following information:

a. The long-term strategic plan for the housing business which shall include labor and infrastructure needs.

b. Information dealing with the benefits the housing business will bring to the area.

c. Examples of why the housing business should be considered or would be considered a good business enterprise.

d. An affidavit that it has not, within the last five years, violated state or federal environmental and worker safety statutes, rules, and regulations or if such violation has occurred that there were mitigating circumstances or such violations did not seriously affect public health or safety or the environment.

e. Information showing the total costs and sources of project financing that will be utilized for the new investment directly related to housing for which the business is seeking approval for a tax credit provided in subsection 6, paragraph *"a"*.

f. If the eligible housing business is a partnership, S corporation, or limited liability company using low-income housing tax credits authorized under section 42 of the Internal Revenue Code to assist in the financing of the housing development, the name of any partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company and the amount designated as allowed under subsection 8.

6. An eligible housing business which has been approved to receive incentives and assistance by the economic development authority pursuant to application as provided in section 15E.195 shall receive all of the following incentives and assistance for a period not to exceed ten years:

a. An eligible housing business may claim a tax credit up to a maximum of ten percent of the new investment which is directly related to the building or rehabilitating of a minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone. The new investment that may be used to compute the tax credit shall not exceed the new investment used for the first one hundred forty thousand dollars of value for each single-family home or for each unit of a multiple dwelling unit building containing three or

more units. The tax credit may be used to reduce the tax liability imposed under chapter 422, division II, III, or V, or chapter 432. Any 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. If the 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 of the partnership, S corporation, limited liability company, or estate or trust except as allowed for under subsection 8 when low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development.

b. Sales, services, and use tax refund for taxes paid by an eligible business including an eligible business acting as a contractor or subcontractor, as provided in section 15.331A.

7. If a business has received incentives or assistance under this section and fails to maintain the requirements of this section to be an eligible housing business, the business is subject to repayment of all or a portion of the incentives and assistance that it has received. The department of revenue shall have the authority to recover the value of state taxes or incentives provided under this section. The value of state incentives provided under this section includes applicable interest and penalties. The economic development authority and the city and county, as applicable, shall enter into agreement with the business specifying the method for determining the amount of incentives or assistance paid which will be repaid in the event of failure to maintain the requirements of this section. In addition, a business that fails to maintain the requirements of this section shall not receive incentives or assistance for each year during which the business is not in compliance.

8. The amount of the tax credits determined pursuant to subsection 6, paragraph "*a*", for each project shall be approved by the economic development authority. The authority shall utilize the financial information required to be provided under subsection 5, paragraph "*e*", to determine the tax credits allowed for each project. In determining the amount of tax credits to be allowed for a project, the authority shall not include the portion of the project cost financed through federal, state, and local government tax credits, grants, and forgivable loans. Upon approving the amount of the tax credit, the economic development authority shall issue a tax credit certificate to the eligible housing business except when low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development in which case the tax credit certificate may be issued to a partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company in the amounts designated by the eligible partnership, S corporation, or limited liability company. An eligible housing business or the designated partner if the business is a partnership, designated shareholder if the business is an S corporation, or designated member if the business is a limited liability company, or transferee shall not claim the tax credit unless a tax credit certificate is attached to the taxpayer's return for the tax year for which the tax credit is claimed. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue. The tax credit certificate shall be transferable if the housing development is located in a brownfield site as defined in section 15.291, if the housing development is located in a blighted area as defined in section 403.17, or if low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development. Not more than three million dollars worth of tax credits for housing developments that are located in a brownfield site as defined in section 15.291 or housing developments located in a blighted area as defined in section 403.17 shall be transferred in one calendar year. The three million dollar annual limit does not apply to tax credits awarded to an eligible housing business having low-income housing tax credits authorized under section 42 of the Internal Revenue Code to assist in the financing of the housing development. The authority may approve an application for tax credit certificates for transfer from an eligible housing business located in a brownfield site as defined in section 15.291 or in a blighted area as defined in section 403.17 that would result in the issuance of more than three million dollars of tax credit certificates for transfer,

provided the authority, through negotiation with the eligible business, allocates those tax credit certificates for transfer over more than one calendar year. The authority shall not approve more than one million five hundred thousand dollars in tax credit certificates for transfer to any one eligible housing business located in a brownfield site as defined in section 15.291 or in a blighted area as defined in section 403.17 in a calendar year. If three million dollars in tax credit certificates for transfer have not been issued at the end of a calendar year, the remaining tax credit certificates for transfer may be issued in advance to an eligible housing business scheduled to receive a tax credit certificate for transfer in a later calendar year. Any time the authority approves a tax credit certificate for transfer which has not been allocated at the end of a calendar year, the authority may prorate the remaining certificates to more than one eligible applicant. If the entire three million dollars of tax credit certificates for transfer is not issued in a given calendar year, the remaining amount may be carried over to a succeeding calendar year. Tax credit certificates issued under this chapter may be transferred to any person or entity. The economic development authority shall notify the department of revenue of the tax credit certificates which have been approved for transfer. Within ninety days of transfer, the transferee must submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required to receive the original certificate and must have the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule of the economic development authority shall not be transferable. A tax credit shall not be claimed by a transferee under subsection 6, paragraph *"a"*, until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

The transferee may use the amount of the tax credit transferred against the taxes imposed under chapter 422, divisions II, III, and V, and chapter 432 for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V.

9. The economic development authority and the department of revenue shall each adopt rules to jointly administer this section.

98 Acts, ch 1179, §1; 2000 Acts, ch 1213, §5 – 8, 10; 2001 Acts, ch 141, §2 – 4, 8; 2002 Acts, ch 1145, §2, 3; 2003 Acts, ch 129, §3; 2003 Acts, ch 133, §1, 4; 2003 Acts, ch 145, §286; 2003 Acts, ch 179, §100, 159; 2003 Acts, 1st Ex, ch 2, §15, 209; 2005 Acts, ch 130, §1, 2; 2005 Acts, ch 179, §53 – 55; 2006 Acts, ch 1133, §5, 10; 2006 Acts, ch 1158, §1; 2011 Acts, ch 118, §85, 89

Referred to in §15.119, 15E.194, 15E.195, 422.11F, 422.33, 422.60, 432.12C

[P] For aggregate limitations on amount of tax credits, see §15.119

[SP] Exception to two-year completion deadline under subsection 4 for certain failures to file appropriate extension paperwork; 2012 Acts, ch 1126, §39; 2012 Acts, ch 1138, §39

15E.193C Eligible development business. Repealed by 2004 Acts, ch 1003, § 11, 12.

15E.194 Distress criteria.

1. An enterprise zone may be designated by a county which meets at least two of the following criteria:

a. The county has an average weekly wage that ranks among the bottom twenty-five counties in the state based on the 2000 annual average weekly wage for employees in private business.

b. The county has a family poverty rate that ranks among the top twenty-five counties in the state based on the 2000 census.

c. The county has experienced a percentage population loss that ranks among the top twenty-five counties in the state between 1995 and 2000.

(1) For purposes of this paragraph *"c"*, prison population shall be excluded in the population loss calculations.

(2) If a county not otherwise qualified to participate in the enterprise zone program qualifies as a result of excluding the county's prison population, a business engaged in the production of ethanol or biodiesel in the county, notwithstanding its status as an eligible business under section 15E.193, shall not be eligible for assistance under section 15E.196.

d. The county has a percentage of persons sixty-five years of age or older that ranks among the top twenty-five counties in the state based on the 2000 census.

2. An enterprise zone may be designated by a city which meets at least two of the following criteria:

a. The area has a per capita income of twelve thousand six hundred forty-eight dollars or less based on the 2000 census.

b. The area has a family poverty rate of twelve percent or higher based on the 2000 census.

c. Ten percent or more of the housing units are vacant in the area.

d. The valuations of each class of property in the designated area is seventy-five percent or less of the citywide average for that classification based upon the most recent valuations for property tax purposes.

e. The area is a blighted area, as defined in section 403.17.

3. *a.* A city may designate an area of up to four square miles to be an enterprise zone if the area is a blighted area as defined in section 403.17 and the area includes or is located within four miles of at least three of the following:

(1) A commercial service airport.

(2) A barge terminal or a navigable waterway.

(3) Entry to a rail line.

(4) Entry to an interstate highway.

(5) Entry to a commercial and industrial highway network as identified pursuant to section 313.2A.

b. An eligible housing business under section 15E.193B shall not receive incentives or assistance for a home or multiple dwelling unit built or rehabilitated in an enterprise zone designated pursuant to this subsection.

4. The economic development authority shall certify eligible enterprise zones that meet the requirements of subsection 1 upon request by the county, subsection 2 upon request by the city, or subsection 3 upon request by the city, as applicable.

5. *a.* A city of any size or any county may designate an enterprise zone at any time prior to July 1, 2012, when a business closure or permanent layoff occurs. The business closure or permanent layoff must involve the loss of full-time employees, not including retail employees, at one place of business totaling at least one thousand employees or four percent or more of the county's resident labor force based on the most recent annual resident labor force statistics from the department of workforce development, whichever is lower. A permanent layoff does not include a layoff of seasonal employees or a layoff that is seasonal in nature. For purposes of this paragraph, *"permanent layoff"* means the loss of jobs to an out-of-state location, the cessation of one or more production lines, the removal of manufacturing machinery and equipment, or similar actions determined to be equivalent in nature by the authority. A permanent layoff must occur on or after February 1, 2007. The enterprise zone may be established on the property of the place of business that has closed or imposed a permanent layoff and the enterprise zone may include an area up to an additional three miles adjacent to the property. The area meeting the requirements for enterprise zone eligibility under this subsection shall not be included for the purpose of determining the area limitation pursuant to section 15E.192, subsection 4. The closing business or business creating a permanent layoff shall not be eligible to receive incentives or assistance under this division. An eligible housing business under section 15E.193B shall not receive incentives or assistance for a home or multiple dwelling unit built or rehabilitated in an enterprise zone designated pursuant to this subsection.

b. The area included in an enterprise zone designated under this subsection on or after June 1, 2000, may be amended to change the boundaries of the enterprise zone. Such an

amendment must be approved by the authority within three years of the date the enterprise zone was certified.

97 Acts, ch 144, §4; 2000 Acts, ch 1213, §9, 10; 2002 Acts, ch 1145, §6; 2006 Acts, ch 1133, §6, 7, 10; 2007 Acts, ch 183, §1; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1039, §1; 2010 Acts, ch 1136, §3; 2011 Acts, ch 118, §85, 89

Referred to in §15.119, 15A.1, 15E.192, 15E.193B, 15E.195, 15H.5

15E.195 Enterprise zone commission.

1. A county which designates an enterprise zone pursuant to section 15E.194, subsection 1, and in which an eligible enterprise zone is certified shall establish an enterprise zone commission to review applications from qualified businesses located within or requesting to locate within an enterprise zone designated pursuant to section 15E.194, subsection 1, to receive incentives or assistance as provided in section 15E.196. The enterprise zone commission shall also review applications from qualified housing businesses requesting to receive incentives or assistance as provided in section 15E.193B. The commission shall consist of nine members. Five of these members shall consist of one representative of the board of supervisors, one member with economic development expertise chosen by the economic development authority, one representative of the county zoning board, one member of the local community college board of directors, and one representative of the local workforce development center. These five members shall select the remaining four members. If the enterprise zone consists of an area meeting the requirements for eligibility for an urban or rural enterprise community under Tit. XIII of the federal Omnibus Budget Reconciliation Act of 1993, one of the remaining four members shall be a representative of that community. A county shall have only one enterprise zone commission to review applications for incentives and assistance for businesses located within or requesting to locate within a certified enterprise zone designated pursuant to section 15E.194, subsection 1.

2. A city which includes at least three census tracts with at least fifty percent of the population in each census tract located in the city and which designates an enterprise zone pursuant to section 15E.194, subsection 2 or 3, and in which an eligible enterprise zone is certified shall establish an enterprise zone commission to review applications from qualified businesses located within or requesting to locate within an enterprise zone to receive incentives or assistance as provided in section 15E.196. The enterprise zone commission shall review applications from qualified housing businesses requesting to receive incentives or assistance as provided in section 15E.193B. The commission shall consist of nine members. Six of these members shall consist of one representative of an international labor organization, one member with economic development expertise chosen by the economic development authority, one representative of the city council, one member of the local community college board of directors, one member of the city planning and zoning commission, and one representative of the local workforce development center. These six members shall select the remaining three members. If the enterprise zone consists of an area meeting the requirements for eligibility for an urban enterprise community under Tit. XIII of the federal Omnibus Budget Reconciliation Act of 1993, one of the remaining three members shall be a representative of that community. If a city contiguous to the city designating the enterprise zone is included in an enterprise zone, a representative of the contiguous city, chosen by the city council, shall be a member of the commission. A city in which an eligible enterprise zone is certified shall have only one enterprise zone commission. If a city has established an enterprise zone commission prior to July 1, 1998, the city may petition to the economic development authority to change the structure of the existing commission.

3. The commission may adopt more stringent requirements, including requirements related to compensation and benefits, for a business to be eligible for incentives or assistance than provided in sections 15E.193 and 15E.193B. The commission may develop as an additional requirement that preference in hiring be given to individuals who live within the enterprise zone. The commission shall work with the local workforce development center to determine the labor availability in the area. The commission shall examine and evaluate building codes and zoning in the enterprise zone and make recommendations to the appropriate governing body in an effort to promote more affordable housing development.

4. If the enterprise zone commission determines that a business qualifies and is eligible to receive incentives or assistance as provided in section 15E.193B or 15E.196, the commission shall submit an application for incentives or assistance to the economic development authority. The authority may approve, defer, or deny the application.

5. *a.* In making its decision, the commission or authority shall consider the impact of the eligible business on other businesses in competition with it and compare the compensation package of businesses in competition with the business being considered for incentives or assistance. The commission or authority shall make a good-faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for incentives or assistance. The commission or authority shall also make a good-faith effort to determine the probability that the proposed incentives or assistance will displace employees of existing businesses. In determining the impact on businesses in competition with the business seeking incentives or assistance, jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created.

b. However, if the commission or authority finds that an eligible business has a record of violations of the law, including but not limited to environmental and worker safety statutes, rules, and regulations, over a period of time that tends to show a consistent pattern, the eligible business shall not qualify for incentives or assistance under section 15E.193B or 15E.196, unless the commission or authority finds that the violations did not seriously affect public health or safety or the environment, or if it did that there were mitigating circumstances. In making the findings and determinations regarding violations, mitigating circumstances, and whether an eligible business is eligible for incentives or assistance under section 15E.193B or 15E.196, the commission or authority shall be exempt from chapter 17A. If requested by the commission or authority, the business shall provide copies of materials documenting the type of violation, any fees or penalties assessed, court filings, final disposition of any findings, and any other information which would assist the commission or authority in assessing the nature of any violation.

6. A business that is approved to receive incentives or assistance shall, for the length of its designation as an enterprise zone business, certify annually to the county or city, as applicable, and the economic development authority its compliance with the requirements of section 15E.193 or 15E.193B.

97 Acts, ch 144, §5; 98 Acts, ch 1175, §12; 98 Acts, ch 1223, §17; 2001 Acts, ch 141, §6, 8; 2002 Acts, ch 1119, §120; 2004 Acts, ch 1003, §9, 12; 2006 Acts, ch 1133, §8, 10; 2008 Acts, ch 1032, §201; 2010 Acts, ch 1061, §180; 2011 Acts, ch 118, §85, 89

Referred to in §15.119, 15E.193B, 15E.196, 15E.197

15E.196 Incentives — assistance.

For purposes of determining the incentives or assistance provided in this section, *"eligible business"* means a business which has been approved to receive incentives and assistance by the economic development authority pursuant to application as provided in section 15E.195. The incentives and assistance provided under this division for businesses located in enterprise zones shall be for a period not to exceed ten years and shall include all of the following:

1. New jobs credit from withholding, as provided in section 15E.197.
2. Sales, services, and use tax refund, as provided in section 15.331A.
3. Investment tax credit of up to ten percent, as provided in section 15.333.
4. Research activities credit, as provided in section 15.335.
5. The county or city for which an eligible enterprise zone is certified may exempt from all property taxation all or a portion of the value added to the property upon which an eligible business locates or expands in an enterprise zone and which is used in the operation of the eligible business. The amount of value added for purposes of this subsection shall be the amount of the increase in assessed valuation of the property following the location or expansion of the business in the enterprise zone. If an exemption provided pursuant to this subsection is made applicable to only a portion of the property within an enterprise zone, the definition of that subset of eligible property must be by uniform criteria which further some planning objective established by the city or county enterprise zone commission and approved by the eligible city or county. The exemption may be allowed for a period not to

exceed ten years beginning the year the eligible business enters into an agreement with the county or city to locate or expand operations in an enterprise zone.

6. Insurance premium tax credit of up to ten percent, as provided in section 15.333A.

97 Acts, ch 144, §6; 98 Acts, ch 1175, §13; 98 Acts, ch 1179, §3; 99 Acts, ch 172, §2; 2001 Acts, ch 141, §7, 8; 2003 Acts, ch 145, §286; 2004 Acts, ch 1003, §10, 12; 2005 Acts, ch 150, §52, 53, 68, 69; 2009 Acts, ch 179, §104; 2011 Acts, ch 118, §85, 89

Referred to in §15.119, 15E.193, 15E.193B, 15E.194, 15E.195

[P] For aggregate limitations on amount of tax credits, see §15.119

15E.197 New jobs credit from withholding.

An eligible business may enter into an agreement with the department of revenue and a community college for a supplemental new jobs credit from withholding from jobs created under the program. The agreement shall be for program services for an additional job training project, as defined in chapter 260E.

1. The agreement shall provide for the following:

a. That the project shall be administered in the same manner as a project under chapter 260E and that a supplemental new jobs credit from withholding in an amount equal to one and one-half percent of the gross wages paid by the eligible business pursuant to section 422.16 is authorized to fund the program services for the additional project.

b. That the supplemental new jobs credit from withholding shall be collected, accounted for, and may be pledged by the community college in the same manner as described in section 260E.5.

2. The auditor of state shall perform an annual audit regarding how the training funds are being used.

3. To provide funds for the payment of the costs of the additional project, a community college may borrow money, issue and sell certificates, and secure the payment of the certificates in the same manner as described in section 260E.6, including but not limited to providing the assessment of an annual levy as described in section 260E.6, subsection 4. The program and credit authorized by this section is in addition to, and not in lieu of, the program and credit authorized in chapter 260E.

4. For purposes of this section, *"eligible business"* means a business which has been approved to receive incentives and assistance by the economic development authority pursuant to application as provided in section 15E.195.

2005 Acts, ch 150, §54, 69; 2007 Acts, ch 126, §8; 2011 Acts, ch 118, §85, 89

Referred to in §15.119, 15E.196, 403.19A, 422.16A

[P] For aggregate limitations on amount of tax credits, see §15.119

15E.198 Compliance cost fees.

The compliance cost fees imposed in 15.330, subsection 12, shall apply to all agreements entered into under this division and shall be collected by the authority in the same manner and to the same extent as described in that subsection.

2013 Acts, ch 126, §3 – 5

Referred to in §15.106B

[SP] Section takes effect June 17, 2013, and applies to agreements entered into on or after that date; 2013 Acts, ch 126, §4, 5

[T] NEW section

15E.199 and 15E.200 Reserved.

DIVISION XIX

IOWA AGRICULTURAL INDUSTRY FINANCE ACT

15E.201 Short title.

This division shall be known and may be cited as the *"Iowa Agricultural Industry Finance Act"*.

98 Acts, ch 1207, §2

15E.202 Definitions.

Except as otherwise provided in this division, or unless the context otherwise requires, the words and phrases used in this division shall have the same meaning as the words and phrases used in chapter 490, including but not limited to the words and phrases used in section 490.140. In addition, all of the following shall apply:

1. *"Actively engaged in agriculture"* means to do any of the following:

a. Inspect agricultural operations periodically and furnish at least half the direct cost of the operations.

b. Regularly and frequently make or take an important part in making management decisions substantially contributing to or affecting the success of the agricultural operation.

c. Perform physical work which significantly contributes to agricultural operation.

2. *"Agricultural commodity"* means any unprocessed agricultural product, including livestock as defined in section 717.1, agricultural crops, and forestry products grown, raised, produced, or fed in this state for sale in commercial channels.

3. *"Agricultural operation"* means an operation concerned with the production of agricultural commodities for processing into agricultural processed products.

4. *"Agricultural processed product"* means an agricultural commodity that has been processed for sale in commercial markets.

5. *"Agricultural producer"* means a person who is any of the following:

a. An individual actively engaged in agricultural production.

b. A person other than an individual, if the person is any of the following:

(1) A general partnership in which all the partners are natural persons, and one of the partners is actively engaged in agricultural production.

(2) A family farm entity if any of the following individuals is actively engaged in agricultural production:

(a) A shareholder and an officer, director, or employee of a family farm corporation.

(b) A member or manager of a family farm limited liability company.

(c) A general partner of a family farm limited partnership.

(d) A beneficiary of a family trust.

(3) A networking farmers entity.

6. *"Agricultural product"* means an agricultural commodity or an agricultural processed product.

7. *"Biotechnology enterprise"* means an enterprise organized under the laws of this state using biological techniques for the development of specialized plant or animal characteristics for beneficial nutritional, commercial, or industrial purposes.

8. *"Certified facility"* means a facility used to process agricultural products as certified by a corporation pursuant to section 15E.209.

9. *"Economic development authority"* or *"authority"* means the economic development authority created pursuant to section 15.105.

10. *"Family farm entity"* means a family farm corporation, family farm limited liability company, family farm limited partnership, or family trust as defined in section 9H.1.

11. *"Iowa agricultural industry finance corporation"* or *"corporation"* means a corporation formed under this division.

12. *"Iowa agricultural industry finance loan"* means a loan made to a qualified Iowa agricultural industry finance corporation pursuant to section 15E.208.

13. *"Iowa agricultural industry venture"* means an enterprise involving any of the following:

a. Agricultural producers investing in a new facility or acquiring or expanding an existing facility in this state which is used to process agricultural commodities produced in this state, if the purpose of the enterprise is to accomplish all of the following:

(1) The creation and retention of wealth in this state derived from processing and marketing agricultural commodities produced in this state.

(2) Increasing production, processing, and marketing of value-added agricultural products in this state.

(3) Providing for a substantial equitable ownership interest in the enterprise by Iowa agricultural producers.

(4) Providing an alternative in this state to corporate vertical integration in the production, processing, and marketing of agricultural products.

b. An agricultural biotechnology enterprise located in this state, if the purpose of research and application of biological techniques conducted by the enterprise is to accomplish all of the following:

(1) The creation and retention of wealth in this state.

(2) Increasing the value of agricultural commodities.

14. *"Loan"* means providing financing to a person under an agreement requiring that the amount in financing be repaid at a maturity date, with an interest rate, and other conditions as specified in the agreement.

15. *"Networking farmers entity"* means the same as defined in section 10.1.

16. *"Qualified investor"* means any of the following:

a. An agricultural producer.

b. A cooperative organized under chapter 501 or 501A.

c. A networking farmers entity.

17. *"Qualified Iowa agricultural industry finance corporation"* or *"qualified corporation"* means an Iowa agricultural industry financing corporation which meets the eligibility requirements of and is approved by the authority pursuant to section 15E.208.

98 Acts, ch 1207, §3; 2002 Acts, ch 1050, §7; 2005 Acts, ch 135, §105; 2011 Acts, ch 118, §61, 62, 87, 89

15E.203 Findings — intent and purposes.

1. The general assembly finds that this state is in a period when the economic structure of agriculture and the production, processing, and marketing of agricultural products is undergoing a period of rapid transformation.

2. It is the intent of the general assembly and purpose of this division that this state capture the greatest benefit from opportunities created during this period, by encouraging local agricultural producer-led ventures to expand production and processing of high value agricultural products, including agricultural processed products, to organize new business structures within the state to carry out these ventures, and to market and deliver increasingly high value agricultural products to consumers around the world. In carrying out this purpose, state resources provided by this division shall be used to assure all of the following:

a. That the majority of the wealth created by Iowa agricultural productivity is retained in this state.

b. That employment in the production, processing, and marketing of agricultural products, and especially agricultural processed products, is increased in this state.

c. That agricultural producers in this state are provided with an opportunity to acquire a majority ownership interest in Iowa agricultural industry ventures promoted under this division.

d. That this state becomes a world model for agricultural producer-based vertical cooperation which depends upon broadly shared access to information, capital, and cooperative action.

e. That the use of private resources with state incentives establish Iowa as the world leader in responsibly produced agricultural products that meet the needs of consumers throughout the world.

3. It is the intent of the general assembly and the purpose of this division that the state encourage Iowa agricultural industry ventures which promote the research and application of biological techniques for the development of specialized plant or animal characteristics for beneficial nutritional, commercial, or industrial purposes.

98 Acts, ch 1207, §4

Referred to in §15E.209

[P] Additional legislative findings; 98 Acts, ch 1207, §1

15E.204 Iowa agricultural industry finance corporations — scope of powers and duties.

1. An Iowa agricultural industry finance corporation formed under this division shall be

subject to and have the powers and privileges conferred by provisions of chapter 490, unless otherwise limited by or inconsistent with the provisions of this division.

2. Nothing in this division requires any of the following:

a. That a limited number of Iowa agricultural industry finance corporations are authorized to be formed. However, the authority may strictly interpret and apply the requirements of this division in determining whether a corporation is a qualified corporation under section 15E.208.

b. That a corporation be organized on a cooperative basis, including structured, organized, or operated pursuant to 26 U.S.C. § 1381(a).

c. That a corporation is restricted from holding, acquiring, or transferring financial or security instruments, including but not limited to a security regulated under chapter 502, money, accounts, and chattel paper under chapter 554, security interests under chapter 554, or a mortgage or deed of trust under chapter 654.

3. An Iowa agricultural industry finance corporation is a private business corporation and not a public corporation or instrumentality of the state. Except as provided in this division, nothing in this division exempts an Iowa agricultural industry finance corporation from the same requirements under state law which apply to other corporations organized under chapter 490, including taxation provisions under chapter 422 or Title X, subtitle 2 of this Code, or security regulations under chapter 502.

98 Acts, ch 1207, §5; 2011 Acts, ch 118, §87, 89

15E.205 Iowa agricultural industry finance corporations — requirements.

1. A corporation incorporated under chapter 490 is an Iowa agricultural industry finance corporation if the corporation complies with the requirements of this section and section 15E.206. In addition to the other requirements for a corporation organized under chapter 490, all of the following shall apply:

a. Agricultural producers must hold at least fifty-one percent of the corporation's common stock and at least fifty-one percent of the corporation's voting stock. The status of an agricultural producer shall be determined at the time of the transfer of stock from the corporation to the shareholder in a manner and as provided in the corporation's articles of incorporation or bylaws.

b. A director of the corporation's board of directors shall not serve for more than seven consecutive years as a board director.

c. The purpose of the corporation must be limited to providing financing to eligible persons under section 15E.209 who are engaging in Iowa agricultural industry ventures limited to establishing a business structure in which agricultural producers produce agricultural commodities for processing and marketing as agricultural processed products.

2. The requirements of this section shall be memorialized in the corporation's articles of incorporation.

98 Acts, ch 1207, §6; 99 Acts, ch 66, §1

Referred to in §15E.208

15E.206 Formation of an Iowa agricultural industry finance corporation.

1. This section authorizes the formation of Iowa agricultural industry finance corporations in order to perfect the manner in which such corporations are formed and operate. Such a corporation is a private business corporation and not a public corporation or instrumentality of the state. The corporation shall not enjoy any of the privileges nor be required to comply with any of the requirements of a state agency.

2. In facilitating the formation of an Iowa agricultural industry finance corporation, the following persons shall serve as incorporators as provided in section 490.201:

a. A member of the economic development authority chosen by the members of the authority or a designee of the member.

b. The director of the economic development authority, or a designee of the director.

c. The secretary of agriculture or a designee of the secretary.

3. *a.* After incorporation, such a corporation shall be organized by an initial board of directors as provided in chapter 490, division II. The initial board of directors shall be

elected by the members of an appointment committee. The members of the appointment committee shall be appointed by the economic development authority. The initial board of directors shall consist of seven members. The members of the appointment committee shall include persons who have an expertise in areas of banking, agricultural lending, business development, agricultural production and processing, seed and venture capital investment, and other areas of expertise as deemed appropriate by the interim board of directors.

b. The members of the appointment committee shall exercise due care to assure that persons appointed to the initial board of directors have the requisite financial experience necessary in order to carry out the duties of the corporation as established in this division, including in areas related to agricultural lending, commercial banking, and investment management.

c. Upon the election of the initial board of directors, the terms of the members of the appointment committee shall expire.

d. The authority shall assist the incorporators and the appointment committee in any manner determined necessary and appropriate by the economic development authority and the director of the authority in order to administer this section.

98 Acts, ch 1207, §7; 2011 Acts, ch 118, §63, 64, 84, 85, 89
Referred to in §15E.205

15E.207 Iowa agricultural industry finance corporations — guiding principles.

In carrying out its duties and exercising its powers under this division, an Iowa agricultural industry finance corporation shall be guided by the following principles:

1. *a.* The corporation must exercise diligence and care in the selection of persons and projects to receive financing as provided in section 15E.209. The corporation must apply customary and acceptable business and lending standards and practices in selecting persons and projects designated for financing and managing agreements under which financing is provided.

b. In selecting projects to receive financing, it is the intent of the general assembly that the corporation seek projects with wage, benefit, and work safety plans which improve the quality of employment in the state and which would not displace employees of existing Iowa agricultural industry ventures.

2. Except as otherwise provided in this section, the corporation shall not become an owner of real or depreciable property, including agricultural land, as provided in section 9H.4. However, this subsection shall not preclude the corporation from holding an interest in real or depreciable property if any of the following apply:

a. The corporation holds nonagricultural property for purposes of carrying out the management of its corporate affairs, including office space, furniture, and supplies.

b. The corporation holds an interest in real or depreciable property on a temporary basis, and any of the following apply:

(1) The interest is a bona fide encumbrance taken for purposes of security in connection with providing financing under section 15E.209.

(2) The interest is acquired by operation of law, including by any of the following:

(a) Devise or bequest.

(b) Court order.

(c) Dissolution under chapter 490, division XIV.

(d) Order in bankruptcy.

(e) Pursuant to a proceeding to enforce a debt against real property under chapter 654, to forfeit a contract to purchase real property under chapter 656, to enforce a secured interest in real or depreciable property under chapter 554, or to otherwise garnish, levy on, execute on, seize, or attach real or depreciable property in the collection of debts, or by any procedure for the enforcement of a lien or claim.

(3) The interest is acquired in order to facilitate a transfer between persons pursuant to a transaction authorized under this division.

98 Acts, ch 1207, §8; 2008 Acts, ch 1032, §201
Referred to in §15E.208, 175.37

15E.208 Qualified corporations — Iowa agricultural industry finance loans.

1. The authority may award an Iowa agricultural industry finance loan to an Iowa agricultural industry finance corporation if the authority in its discretion determines that the corporation is qualified under this section.

2. The corporation must apply for an Iowa agricultural industry finance loan on forms and according to procedures required by the authority.

3. The authority shall loan all of the amounts available to the authority pursuant to this division to a qualified corporation with provisions and restrictions as determined by the authority and contained in a loan agreement executed between the authority and the qualified corporation.

a. The authority may attach conditions to the granting of the loan as it deems desirable, including any restrictions on the subordination of the moneys loaned. The attorney general shall assist the authority in drafting loan agreements and in collecting on the loan agreement.

b. The Iowa agricultural industry finance loan shall be repayable upon terms and conditions negotiated by the parties.

(1) The repayment period shall begin six years following the date when the Iowa agricultural industry finance loan is awarded and end twenty-five years after the date that the repayment period begins.

(2) At least four percent of the amount of the Iowa agricultural industry finance loan due shall be paid each year to the authority. However, the authority may accept an assignment of a loan made by the corporation providing financing to an eligible person pursuant to section 15E.209. The assigned loan shall grant to the authority the corporation's right to payment under the loan. Any such assignment shall be made by an agreement executed by the authority and the corporation. The assignment agreement shall be subject to all of the following:

(a) The period of assignment may be for any number of years. The authority shall apply to the amounts due under the Iowa agricultural industry finance loan the principal, interest, and fees which the eligible person is obligated to pay under the assigned loan. The total amount of the principal, interest, and fees that the eligible person is obligated to pay to the authority during the period of assignment plus any other repayment of the Iowa agricultural industry finance loan made by the corporation to the authority must equal the amount of the Iowa agricultural industry finance loan that the corporation would otherwise be obligated to repay the authority during that same period. However, the agreement may provide that during any year of the assignment period the eligible person may pay more or less than four percent of the amount of the Iowa agricultural industry finance loan that the corporation would otherwise be obligated to repay during that year.

(b) The assignment agreement shall contain conditions relating to the right of payment assigned to the authority which may include securing the payment obligation in any manner that allows the authority to enforce a debt against the property of the eligible person. The authority shall not have a right of recourse against the corporation for any amount required to be applied from the assigned loan to the Iowa agricultural industry finance loan.

(c) Notwithstanding any provision of this division to the contrary, payments on the principal balance of the loan granted by the corporation to an eligible person and assigned to the department of economic development pursuant to this subparagraph during calendar year 2003 shall be deferred until October 1, 2007. The eligible person shall make principal payments to the department of economic development in the amount of one million dollars for each year on October 1, 2007, October 1, 2008, and October 1, 2009. The eligible person shall pay the department of economic development four hundred eighty-two thousand seven hundred sixty-one dollars in interest, which shall be deemed to be the total amount of interest accruing on the principal amount of the loan. The eligible person shall pay the interest amount on October 1, 2010. Upon the payment of the principal balance of the loan and the accrued interest, the debt shall be retired.

(d) Notwithstanding any provision of this division to the contrary, the corporation shall repay the department of economic development, or its successor entity, the principal balance of the Iowa agricultural industry finance loan beginning on October 1, 2007. The principal balance of the loan equals twenty-one million five hundred seventeen thousand two hundred

thirty-nine dollars. The corporation shall repay the department of economic development, or its successor entity, five hundred seventeen thousand two hundred thirty-nine dollars by October 1, 2007, and for each subsequent year the corporation shall repay the department, or its successor entity, at least one million dollars by October 1 until the total principal balance of the loan is repaid. This subparagraph shall not be construed to limit the authority of the department of economic development, or its successor entity, to negotiate the payment of interest accruing on the principal balance which shall be paid as provided by an agreement executed by the department of economic development, or its successor entity, and the corporation.

(e) Notwithstanding any provision of this division to the contrary, payments of principal and interest of the loan granted by the corporation to an eligible person and assigned to the department of economic development pursuant to this subparagraph during calendar year 2003 which were deferred pursuant to subparagraph division (c) shall be forgiven and the total debt, including interest, shall be retired.

(3) The corporation shall not be subject to a prepayment penalty.

c. The corporation shall not expend moneys originating from the state, including moneys loaned under this section, on political activity or on any attempt to influence legislation.

4. A corporation shall not provide financing to support a person who is any of the following:

a. An agricultural producer, if any of the following applies:

(1) The agricultural producer is a party to a pending action for a violation of chapter 455B or 459, subchapters II and III, concerning a confinement feeding operation in which the person has a controlling interest and the action is commenced in district court by the attorney general.

(2) The agricultural producer or a confinement feeding operation in which the agricultural producer holds a controlling interest is classified as a habitual violator under section 459.604.

b. An agricultural products processor, if the processor or a person owning a controlling interest in the processor has demonstrated, within the most recent consecutive three-year period prior to the application for financing, a continuous and flagrant disregard for the health and safety of its employees or the quality of the environment. Violations of environmental protection statutes, rules, or regulations shall be reported for the most recent five-year period prior to application. Evidence of such disregard shall include a history of serious or uncorrected violations of state or federal law protecting occupational health and safety or the environment, including but not limited to serious or uncorrected violations of occupational safety and health standards enforced by the division of labor services of the department of workforce development pursuant to chapter 84A, or rules enforced by the department of natural resources pursuant to chapter 455B or 459, subchapters II and III.

c. A member of the economic development authority, an employee of the economic development authority, an elected state official, or any director or other officer or an employee of the corporation.

5. In order to be eligible as a qualified Iowa agricultural industry finance corporation, all of the following conditions must be satisfied:

a. The corporation must only provide financing to persons and ventures eligible under section 15E.209.

b. The corporation must demonstrate that it complies with guiding principles for the corporation as provided in section 15E.207.

c. The corporation must adopt policies and procedures which maximize public oversight into the affairs of the corporation, by providing a forum for public comment, an opportunity for public review of the corporation's actions, and methods to ensure accountability for the expenditure of public moneys loaned to the corporation.

d. The corporation's articles of incorporation must comply with requirements established by the authority relating to the capacity and integrity of the corporation to carry out the purposes of this division, including but not limited to all of the following:

(1) The capitalization of the corporation.

(2) The manner in which financing is provided by the corporation, including the manner in which an Iowa agricultural industry finance loan can be used by the corporation.

(3) The composition of the corporation's board of directors. The board must be composed of persons knowledgeable in Iowa agricultural industries including a representative number of individuals experienced and knowledgeable in financing new agricultural industries.

(4) The manner of oversight required by the authority or the auditor of state. The articles must provide that the corporation shall submit a report to the governor, the general assembly, and the authority. The report shall provide a description of the corporation's activities and a summary of its finances, including financial awards. The report shall be submitted not later than January 10 of each year. The articles shall provide that an audit of the corporation must be conducted each year for the preceding year by a certified public accountant licensed pursuant to chapter 542. The auditor of state may audit the books and accounts of the corporation at any time. The results of the annual audit and any audit for the current year conducted by the auditor of state shall be included as part of the report.

(5) The execution of an agreement between the corporation and an eligible recipient as required by the authority as a condition of providing financing, in which the eligible recipient agrees to become a shareholder in the corporation. If the eligible recipient is an agricultural producer as provided in section 15E.209, the agreement shall provide that the agricultural producer becomes a shareholder of voting common stock in the corporation equal to at least five percent of the financing provided to the agricultural producer pursuant to the agreement. The agreement shall be for a period of not less than ten years. An agreement shall at least provide all of the following:

(a) The establishment of a common stock pricing system. The stock shall be frozen against price appreciation for the first five years of the life of the corporation. The articles shall contain waivers for death and disability.

(b) The maintenance of stock ownership by an eligible recipient until a financial assistance obligation due the corporation is satisfied.

(c) A requirement that the par value of participating common stock be established prior to providing financial assistance to an eligible recipient.

e. To the extent feasible and fiscally prudent, the corporation must maintain a portfolio which is diversified among the various types of agricultural commodities and agribusiness.

f. Not more than seventy-five percent of moneys originating from the state, including moneys loaned to the corporation pursuant to this section, may be used to finance any one Iowa agricultural industry venture.

g. The corporation may only be terminated by the following methods, unless approved by the authority:

(1) Merger or share exchange under chapter 490, division XI.

(2) Dissolution as provided in chapter 490, division XIV, part A.

(3) A sale, lease, exchange, mortgage, pledge, transfer, or other disposition, in one or more transactions of assets of the corporation which has an aggregate market value equal to fifty percent or more of either the aggregate market value of all of the assets of the corporation determined on a consolidated basis, or the aggregate market value of all the outstanding stock of the corporation.

6. The authority shall provide for the default of the loan if the qualified corporation does any of the following:

a. Violates a provision of the articles of incorporation or an amendment to the articles of incorporation that is required by this division which violation is not approved by the authority.

b. Violates the terms of the loan agreement executed between the authority and the corporation, which violation is not approved by the authority.

c. Fails to comply with the requirements of section 15E.205.

d. Completes a transaction, if all of the following apply:

(1) The transaction involves any of the following:

(a) A merger or share exchange under chapter 490, division XI.

(b) The sale, lease, exchange, mortgage, pledge, transfer, or other disposition, in one or more transactions of assets of the corporation which has an aggregate market value equal to fifty percent or more of either the aggregate market value of all of the assets of the corporation determined on a consolidated basis, or the aggregate market value of all the outstanding stock of the corporation.

(2) The surviving entity of a merger or share exchange, or the entity acquiring the assets of the corporation fails to meet the requirements of section 15E.205.

7. In an action to enforce a judgment against a qualified corporation, the interest of the state shall be subrogated to the interests of holders of bonds issued by the corporation.

8. Moneys repaid or collected by the authority under this section shall be deposited into the road use tax fund created pursuant to section 312.1.

98 Acts, ch 1207, §9; 99 Acts, ch 66, §2; 2000 Acts, ch 1058, §6; 2001 Acts, ch 55, §20, 38; 2002 Acts, ch 1162, §29; 2003 Acts, ch 122, §1, 2; 2004 Acts, ch 1175, §324; 2006 Acts, ch 1185, §55; 2009 Acts, ch 41, §263; 2011 Acts, ch 118, §65, 66, 85, 89; 2012 Acts, ch 1021, §21

Referred to in §15E.202, 15E.204

[P] Duties of former department of economic development were assumed by economic development authority beginning July 1, 2011, pursuant to 2011 Acts, ch 118

15E.209 Financing provided by an Iowa agricultural industry finance corporation.

1. An Iowa agricultural industry finance corporation may only provide financing to a person determined eligible by the corporation according to requirements of the corporation and this section. At a minimum, an eligible person must be one of the following:

a. An agricultural producer participating in an Iowa agricultural industry venture as provided according to the terms of an agreement executed by the agricultural producer and the corporation. The agreement may require that the agricultural producer acquire an interest in an agricultural products processor certified by the corporation, or enter into a marketing agreement under which the agricultural producer agrees to market an amount of the agricultural producer's agricultural commodities to the agricultural products processor.

b. An agricultural products processor which participates as part of an Iowa agricultural industry venture as provided according to the terms of an agreement executed by the agricultural products processor and the corporation. The corporation shall only provide financing if the venture involves the construction, expansion, or acquisition of an agricultural products processing facility as certified by the corporation and if all of the following apply:

(1) The certified facility must be located in this state.

(2) Either of the following apply:

(a) More than fifty percent of the ownership interest in the certified facility must be held by qualified investors. If the certified facility is owned by an entity rather than by individuals, more than fifty percent of the interest in the entity and more than fifty percent of the voting interest in the entity must be held by qualified investors.

(b) More than fifty percent of the commodities processed by the certified facility during any twelve-month period is produced in this state. However, the corporation may provide financing, if its board of directors determines that adequate supplies of the commodity are not available for processing as otherwise required in this subparagraph division.

c. An agricultural biotechnology enterprise which qualifies as an Iowa agricultural industry venture as provided according to the terms of an agreement executed by the agricultural biotechnology enterprise and the corporation, if the board of directors for the corporation determines that the enterprise would advance the intent and purposes set out in section 15E.203.

2. Financing may be in the form of a loan, loan guarantee, sale and purchase of mortgage instruments for eligible recipients, or other similar forms of financing. The financing shall be awarded pursuant to an agreement between the corporation and the eligible person.

3. A corporation shall not provide financing to support an outstanding debt or other obligation, regardless of whether the original financing was provided by a corporation.

98 Acts, ch 1207, §10; 2009 Acts, ch 41, §263

Referred to in §15E.202, 15E.205, 15E.207, 15E.208

15E.210 Obligations.

The obligations of the corporation are not obligations of this state or any political subdivision of this state within the meaning of any constitutional or statutory debt limitations, but are obligations of the corporation payable solely and only from the corporation's funds. The corporation shall not pledge the credit or taxing power of this state or any political

subdivision of this state or make its debts payable out of any moneys except for those of the corporation.

98 Acts, ch 1207, §11

15E.211 Rules.

The authority may adopt rules pursuant to chapter 17A necessary to administer this division.

98 Acts, ch 1207, §12; 2011 Acts, ch 118, §87, 89

15E.212 through 15E.220 Reserved.

DIVISION XX

IOWA ECONOMIC DEVELOPMENT LOAN AND CREDIT GUARANTEE FUND

15E.221 through 15E.225 Repealed by 2009 Acts, ch 123, § 8.

15E.226 Reserved.

15E.227 Loan and credit guarantee fund. Repealed by 2009 Acts, ch 123, § 8.

15E.228 through 15E.230 Reserved.

DIVISION XXI

ECONOMIC DEVELOPMENT REGIONS AND ENTERPRISE AREAS

15E.231 Economic development regions.

In order for an economic development region to receive assistance pursuant to section 15.335B, an economic development region's regional development plan must be approved by the authority. An economic development region shall consist of not less than three counties, unless two contiguous counties have a combined population of at least three hundred thousand based on the most recent federal decennial census. An economic development region shall establish a focused economic development effort that shall include a regional development plan relating to one or more of the following areas:

1. Regional marketing strategies.
2. Development of the information solutions sector.
3. Development of the advanced manufacturing sector.
4. Development of the life sciences and biotechnology sector.
5. Development of the insurance or financial services sector.
6. Physical infrastructure including, but not limited to, horizontal infrastructure, water and sewer infrastructure, and telecommunications infrastructure.
7. Entrepreneurship.
8. Development of the alternative and renewable energy sector.

2005 Acts, ch 150, §9; 2006 Acts, ch 1142, §18; 2009 Acts, ch 123, §27; 2010 Acts, ch 1138, §10, 16; 2011 Acts, ch 118, §86, 87, 89; 2012 Acts, ch 1126, §18

[P] Allocation of funds for regional financial assistance, see §15.335B(2)(a)(2)

[SP] 2010 amendment applies retroactively to tax years beginning on or after January 1, 2010; 2010 Acts, ch 1138, §16

15E.232 Regional economic development — financial assistance.

1. An economic development region may apply for financial assistance from a fund established pursuant to section 15.335B to assist with the installation of physical infrastructure needs including, but not limited to, horizontal infrastructure, water and sewer

infrastructure, and telecommunications infrastructure, related to the development of fully served business and industrial sites by one or more of the region's economic development partners or for the installation of infrastructure related to a new business location or expansion. In order to receive financial assistance pursuant to this subsection, the economic development region must demonstrate all of the following:

a. The ability to provide matching moneys on a basis of a one dollar contribution of local matching moneys for every two dollars received from a fund established pursuant to section 15.335B.

b. The commitment of the specific business partner including, but not limited to, a letter of intent defining a capital commitment or a percentage of equity.

c. That all other funding alternatives have been exhausted.

2. The authority may establish and administer a regional economic development revenue sharing pilot project for one or more regions. The authority shall take into consideration the geographical dispersion of the pilot projects. The authority shall provide technical assistance to the regions participating in a pilot project.

3. An economic development region may apply for financial assistance from a fund established pursuant to section 15.335B to assist an existing business threatened with closure due to a potential consolidation to an out-of-state location. The economic development region may apply for financial assistance from a fund established pursuant to section 15.335B for the purchase, rehabilitation, or marketing of a building that has become available due to the closing of an existing business due to a consolidation to an out-of-state location. In order to receive financial assistance under this subsection, an economic development region must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every three dollars received from a fund established pursuant to section 15.335B.

4. An economic development region may apply for financial assistance from a fund established pursuant to section 15.335B to establish and operate an entrepreneurial initiative. In order to receive financial assistance under this subsection, an economic development region must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every two dollars received from a fund established pursuant to section 15.335B.

5. *a.* An economic development region may apply for financial assistance from a fund established pursuant to section 15.335B to establish and operate a business succession assistance program for the region.

b. In order to receive financial assistance under this subsection, an economic development region must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every two dollars received from a fund established pursuant to section 15.335B.

6. An economic development region may apply for financial assistance from a fund established pursuant to section 15.335B to implement economic development initiatives that are either unique to the region or innovative in design and implementation. In order to receive financial assistance under this subsection, an economic development region must demonstrate the ability to provide local matching moneys on a one-to-one basis.

7. Financial assistance under subsections 1, 3, 4, 5, and 6, and section 15E.233 shall be limited to a total of one million dollars each fiscal year for the fiscal period beginning July 1, 2005, and ending June 30, 2015, and shall not be provided to assist in the establishment, operation, or installation of a project, initiative, or activity that may result in the provision, lease, or sale of goods or services by a government body that competes with private enterprise.

2005 Acts, ch 150, §10; 2007 Acts, ch 174, §88; 2010 Acts, ch 1138, §11, 16; 2011 Acts, ch 118, §86, 87, 89; 2012 Acts, ch 1126, §19; 2013 Acts, ch 90, §9 – 11

Referred to in §15.335B

[SP] 2010 amendments apply retroactively to tax years beginning on or after January 1, 2010; 2010 Acts, ch 1138, §16

[T] Subsection 1, paragraph a amended

[T] Subsections 3 and 4 amended

[T] Subsection 5, paragraph b amended

15E.233 Economic enterprise areas.

1. An economic development region may apply to the authority for approval to be designated as an economic enterprise area based on criteria provided in subsection 3. The authority shall approve no more than ten regions as economic enterprise areas.

2. *a.* An approved economic enterprise area may apply to the authority for financial assistance from a fund established pursuant to section 15.335B for up to seventy-five thousand dollars each fiscal year during the fiscal period beginning July 1, 2005, and ending June 30, 2015, for any of the following purposes:

(1) Economic development-related strategic planning and marketing for the region as a whole.

(2) Economic development of fully-served business sites.

(3) The construction of speculative buildings on a fully served lot.

(4) The rehabilitation of an existing building to marketable standards.

b. In order to receive financial assistance under this subsection, an economic enterprise area must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every three dollars received from a fund established pursuant to section 15.335B.

3. An economic enterprise area shall consist of at least one county containing no city with a population of more than twenty-three thousand five hundred and shall meet at least three of the following criteria:

a. A per capita income of eighty percent or less than the national average.

b. A household median income of eighty percent or less than the national average.

c. Twenty-five percent or more of the population of the economic enterprise area with an income level of one hundred fifty percent or less of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

d. A population density in the economic enterprise area of less than ten people per square mile.

e. A loss of population as shown by the 2000 certified federal census when compared with the 1990 certified federal census.

f. An unemployment rate greater than the national rate of unemployment.

g. More than twenty percent of the population of the economic enterprise area consisting of people over the age of sixty-five.

2005 Acts, ch 150, §11; 2011 Acts, ch 118, §86, 87, 89; 2013 Acts, ch 90, §12, 13
Referred to in §15E.232
[T] Subsection 2, paragraph a, unnumbered paragraph 1 amended
[T] Subsection 2, paragraph b amended

15E.234 through 15E.300 Reserved.

DIVISION XXII

ENDOW IOWA PROGRAM

15E.301 Short title.

This division shall be known as and may be cited as the "*Endow Iowa Program Act*".

2003 Acts, 1st Ex, ch 1, §88, 93
[2003 enactment of section rescinded pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]
2004 Acts, 1st Ex, ch 1001, §3, 4

15E.302 Purpose.

The purpose of this division is to enhance the quality of life for citizens of this state through increased philanthropic activity by providing capital to new and existing citizen groups of this state organized to establish endowment funds that will address community needs. The

purpose of this division is also to encourage individuals, businesses, and organizations to invest in community foundations.

2003 Acts, 1st Ex, ch 1, §89, 93

[2003 enactment of section rescinded pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]

2004 Acts, 1st Ex, ch 1001, §3, 4

15E.303 Definitions.

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

1. *"Board"* means the governing board of the lead philanthropic entity identified by the authority pursuant to section 15E.304.

2. *"Business"* means a business operating within the state and includes individuals operating a sole proprietorship or having rental, royalty, or farm income in this state and includes a consortium of businesses.

3. *"Community affiliate organization"* means a group of five or more community leaders or advocates organized for the purpose of increasing philanthropic activity in an identified community or geographic area in this state with the intention of establishing a community affiliate endowment fund.

4. *"Endow Iowa qualified community foundation"* means a community foundation organized or operating in this state that substantially complies with the national standards established by the national council on foundations as determined by the authority in collaboration with the Iowa council of foundations.

5. *"Endowment gift"* means an irrevocable contribution to a permanent endowment held by an endow Iowa qualified community foundation.

6. *"Lead philanthropic entity"* means the entity identified by the authority pursuant to section 15E.304.

2003 Acts, 1st Ex, ch 1, §90, 93

[2003 enactment of section rescinded pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]

2004 Acts, 1st Ex, ch 1001, §3, 4; 2005 Acts, ch 150, §71, 81; 2011 Acts, ch 118, §87, 89

Referred to in §15E.311, 22.7

15E.304 Endow Iowa grants.

1. The authority shall identify a lead philanthropic entity for purposes of encouraging the development of qualified community foundations in this state. A lead philanthropic entity shall meet all of the following qualifications:

a. The entity shall be a nonprofit entity which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code.

b. The entity shall be a statewide organization with membership consisting of organizations, such as community, corporate, and private foundations, whose principal function is the making of grants within the state of Iowa.

c. The entity shall have a minimum of forty members and that membership shall include qualified community foundations.

2. A lead philanthropic entity may receive a grant from the authority. The board shall use the grant moneys to award endow Iowa grants to new and existing qualified community foundations and to community affiliate organizations that do all of the following:

a. Provide the board with all information required by the board.

b. Demonstrate a dollar-for-dollar funding match in a form approved by the board.

c. Identify an endow Iowa qualified community foundation to hold all funds. An endow Iowa qualified community foundation shall not be required to meet this requirement.

d. Provide a plan to the board demonstrating the method for distributing grant moneys received from the board to organizations within the community or geographic area as defined by the endow Iowa qualified community foundation or the community affiliate organization.

3. Endow Iowa grants awarded to new and existing endow Iowa qualified community foundations and to community affiliate organizations shall not exceed twenty-five thousand dollars per foundation or organization unless a foundation or organization demonstrates a multiple county or regional approach. Endow Iowa grants may be awarded on an annual basis with not more than three grants going to one county in a fiscal year.

4. In ranking applications for grants, the board shall consider a variety of factors including the following:

a. The demonstrated need for financial assistance.

b. The potential for future philanthropic activity in the area represented by or being considered for assistance.

c. The proportion of the funding match being provided.

d. For community affiliate organizations, the demonstrated need for the creation of a community affiliate endowment fund in the applicant's geographic area.

e. The identification of community needs and the manner in which additional funding will address those needs.

f. The geographic diversity of awards.

5. Of any moneys received by a lead philanthropic entity from the state, not more than five percent of such moneys shall be used by the entity for administrative purposes.

2003 Acts, 1st Ex, ch 1, §91, 93

[2003 enactment of section rescinded pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]

2004 Acts, 1st Ex, ch 1001, §3, 4; 2005 Acts, ch 150, §72, 73, 81; 2011 Acts, ch 118, §87, 89

Referred to in §15E.303, 15E.311

15E.305 Endow Iowa tax credit.

1. For tax years beginning on or after January 1, 2003, a tax credit shall be allowed against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.329 equal to twenty-five percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation. An individual may claim a tax credit under this section of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust. A tax credit shall be allowed only for an endowment gift made to an endow Iowa qualified community foundation for a permanent endowment fund established to benefit a charitable cause in this state. The amount of the endowment gift for which the tax credit is claimed shall not be deductible in determining taxable income for state income tax purposes. Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever occurs first. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

2. The aggregate amount of tax credits authorized pursuant to this section shall not exceed a total of six million dollars annually.

a. The maximum amount of tax credits granted to a taxpayer shall not exceed five percent of the aggregate amount of tax credits authorized.

b. Ten percent of the aggregate amount of tax credits authorized in a calendar year shall be reserved for those endowment gifts in amounts of thirty thousand dollars or less. If by September 1 of a calendar year the entire ten percent of the reserved tax credits is not distributed, the remaining tax credits shall be available to any other eligible applicants.

3. A tax credit shall not be transferable to any other taxpayer.

4. The authority shall develop a system for registration and authorization of tax credits under this section and shall control the distribution of all tax credits to taxpayers providing an endowment gift subject to this section. The authority shall adopt administrative rules pursuant to chapter 17A for the qualification and administration of endowment gifts.

2003 Acts, 1st Ex, ch 2, §83, 89; 2005 Acts, ch 150, §74 – 77, 81; 2006 Acts, ch 1151, §1 – 3, 7, 8; 2007 Acts, ch 174, §89; 2008 Acts, ch 1032, §201; 2009 Acts, ch 179, §105, 106, 153; 2010 Acts, ch 1138, §17 – 19; 2011 Acts, ch 107, §1, 2; 2011 Acts, ch 118, §87, 89; 2013 Acts, ch 126, §11, 13, 14

Referred to in §2.48, 422.11H, 422.33, 422.60, 432.12D, 533.329

[SP] 2009 amendments to subsections 1 and 2 take effect January 1, 2010, and apply to tax years beginning on or after that date; 2009 Acts, ch 179, §153

[SP] 2010 amendment to subsection 2, unnumbered paragraph 1 applies retroactively for endow Iowa tax credits authorized on or after January 1, 2010; 2010 Acts, ch 1138, §19

[SP] 2011 amendment to subsection 2, unnumbered paragraph 1 takes effect May 12, 2011, and applies retroactively to January 1, 2011, for endow Iowa tax credits authorized on or after that date; 2011 Acts, ch 107, §2

[SP] 2013 amendment to subsection 2 takes effect June 17, 2013, and applies retroactively to January 1, 2012, for endow Iowa tax credits authorized on or after that date and for endow Iowa tax credit applications received on or after that date; 2013 Acts, ch 126, §13, 14
[T] Subsection 2 amended

15E.306 Reports. Repealed by 2008 Acts, ch 1122, § 16.

15E.307 through 15E.310 Reserved.

DIVISION XXIII

COUNTY ENDOWMENT FUND

15E.311 County endowment fund.

1. The purpose of this section is to enhance the quality of life for citizens of Iowa by providing moneys to new or existing citizen groups of this state organized to establish county affiliate funds or community foundations that will address countywide needs.

2. A county endowment fund is created in the state treasury under the control of the department of revenue. The fund consists of all moneys appropriated to the fund. Moneys in the fund shall be distributed by the department as provided in this section.

3. *a.* At the end of each fiscal year, moneys in the fund shall be transferred into separate accounts within the fund and designated for use by each county in which no licensee authorized to conduct gambling games under chapter 99F was located during that fiscal year. Moneys transferred to county accounts shall be divided equally among the counties. Moneys transferred into an account for a county shall be transferred by the department to an eligible county recipient for that county. Of the moneys transferred, an eligible county recipient shall distribute seventy-five percent of the moneys as grants to charitable organizations for charitable purposes in that county and shall retain twenty-five percent of the moneys for use in establishing a permanent endowment fund for the benefit of charitable organizations for charitable purposes. Of the amounts distributed, eligible county recipients shall give special consideration to grants for projects that include significant vertical infrastructure components designed to enhance quality of life aspects within local communities. In addition, as a condition of receiving a grant, the governing body of a charitable organization receiving a grant shall approve all expenditures of grant moneys and shall allow a state audit of expenditures of all grant moneys.

b. If a county does not have an eligible county recipient, moneys in the account for that county shall remain in that account until an eligible county recipient for that county is established.

4. As used in this section, unless the context otherwise requires:

a. *"Charitable organization"* means an organization that is described in section 501(c)(3) of the Internal Revenue Code that is exempt from taxation under section 501(a) of the Internal Revenue Code or an organization that is established for a charitable purpose.

b. *"Charitable purpose"* means a purpose described in section 501(c)(3) of the Internal Revenue Code, or a benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary objective.

c. *"Eligible county recipient"* means an endow Iowa qualified community foundation or community affiliate organization, as defined in section 15E.303, that is selected, in accordance with the procedures described in section 15E.304, to receive moneys from an account created in this section for a particular county. To be selected as an eligible county recipient, a community affiliate organization shall establish a county affiliate fund to receive moneys as provided by this section.

5. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the county endowment fund shall be credited to the county endowment fund. Notwithstanding section 8.33, moneys credited to the county endowment fund shall not revert at the close of a fiscal year.

6. Three percent of the moneys deposited in the county endowment fund shall be used by the lead philanthropic organization identified by the authority pursuant to section 15E.304 for purposes of administering and marketing the county endowment fund. Of the amounts available to be used by the lead philanthropic organization pursuant to this subsection, seventy thousand dollars is appropriated to the economic development authority each fiscal year for administrative costs related to the endow Iowa program.

2004 Acts, ch 1136, §1; 2005 Acts, ch 150, §78, 79, 81; 2006 Acts, ch 1151, §4, 5, 8; 2011 Acts, ch 118, §85, 89

Referred to in §99F.11, 421.17

15E.312 through 15E.320 Reserved.

DIVISION XXIV

REGIONAL SPORTS AUTHORITY DISTRICTS

15E.321 Regional sports authority districts.

1. As used in this section, *"district"* means a regional sports authority district certified under this section.

2. *a.* A convention and visitors bureau may apply to the authority for certification of a regional sports authority district which may include more than one city and more than one convention and visitors bureau within the district. The authority shall not certify more than ten such districts.

b. If more than ten applications are received in any certification year, the authority shall certify the districts on a competitive basis. In evaluating the applications for certification, the authority shall consider the economic impact to the state of the activities proposed in the application, the geographic diversity of the districts applying, and any other factors the authority deems relevant.

3. Each district shall actively promote youth sports, high school athletic activities, the special olympics, and other nonprofessional sporting events in the local area.

4. Each district shall be governed by a seven-member board consisting of seven members appointed by the convention and visitors bureau filing the application pursuant to subsection 2. At least three members of the board shall consist of city council members of any cities located in the district. Each board shall be responsible for administering programs designed to promote the activities enumerated in subsection 3.

2007 Acts, ch 219, §32; 2011 Acts, ch 118, §87, 89; 2012 Acts, ch 1018, §8

15E.322 through 15E.350 Reserved.

DIVISION XXV

BUSINESS ACCELERATORS

15E.351 Business accelerators.

1. The authority shall establish and administer a business accelerator program to provide financial assistance for the establishment and operation of a business accelerator for technology-based, value-added agricultural, information solutions, alternative and renewable energy including the alternative and renewable energy sectors listed in section 476.42, subsection 1, paragraph *"a"*, subparagraph (1), or advanced manufacturing start-up businesses or for a satellite of an existing business accelerator. The program shall be designed to foster the accelerated growth of new and existing businesses through the provision of technical assistance. The authority may provide financial assistance under this

section from moneys allocated for financial assistance for business accelerators pursuant to section 15.335B, subsection 2.

2. In determining whether a business accelerator qualifies for financial assistance, the authority must find that a business accelerator meets all of the following criteria:

a. The business accelerator must be a not-for-profit organization affiliated with an area chamber of commerce, a community or county organization, or economic development region.

b. The geographic area served by a business accelerator must include more than one county.

c. The business accelerator must possess the ability to provide service to a specific type of business as well as to meet the broad-based needs of other types of start-up entrepreneurs.

d. The business accelerator must possess the ability to market business accelerator services in the region and the state.

e. The business accelerator must possess the ability to communicate with and cooperate with other business accelerators and similar service providers in the state.

f. The business accelerator must possess the ability to engage various funding sources for start-up entrepreneurs.

g. The business accelerator must possess the ability to communicate with and cooperate with various entities for purposes of locating suitable facilities for clients of the business accelerator.

h. The business accelerator must possess the willingness to accept referrals from the authority.

3. In determining whether a business accelerator qualifies for financial assistance, the authority may consider any of the following:

a. The business experience of the business accelerator's professional staff.

b. The business plan review capacity of the business accelerator's professional staff.

c. The business accelerator's professional staff with demonstrated experience in all aspects of business disciplines.

d. The business accelerator's professional staff with access to external service providers including legal, accounting, marketing, and financial services.

4. In order to receive financial assistance under this section, the financial assistance recipient must demonstrate the ability to provide matching moneys on a basis of a two dollar contribution of recipient moneys for every one dollar received in financial assistance.

2005 Acts, ch 150, §12; 2006 Acts, ch 1030, §4; 2006 Acts, ch 1142, §19; 2009 Acts, ch 123, §28; 2011 Acts, ch 25, §128; 2011 Acts, ch 118, §67, 84, 85, 89; 2012 Acts, ch 1021, §22, 23; 2012 Acts, ch 1126, §20

Referred to in §15.335B

15E.352 through 15E.360 Reserved.

DIVISION XXVI

SMALL BUSINESS DISASTER ASSISTANCE PROGRAM

15E.361 Small business disaster recovery financial assistance program.

1. The authority shall establish and administer a small business disaster recovery financial assistance program. Under the program, the authority shall provide grants to administrative entities for purposes of providing financial assistance to eligible businesses that sustained physical damage or economic loss due to a natural disaster occurring after May 24, 2008, and before August 14, 2008. Moneys shall be allocated to administrative entities on the basis of the percentage of disaster loans awarded by the United States small business administration to businesses located within a city's jurisdiction or a disaster recovery area as defined by the authority.

2. An eligible business is a business that sustained physical damage or economic loss

due to a natural disaster occurring after May 24, 2008, and before August 14, 2008, and has executed loan documents for a disaster loan from an eligible lender as defined by the authority. Financial assistance shall be in the form of forgivable loans and reimbursement for acquisition of energy-efficient equipment. The maximum amount of a forgivable loan is twenty-five percent of the loan amount from the eligible lender up to a maximum of fifty thousand dollars. Up to an additional five thousand dollars of assistance shall be available for the reimbursement of energy-efficient purchases and installation.

3. As determined by the authority, unused or unobligated moneys may be reclaimed and reallocated by the authority to other administrative agencies.

4. For purposes of this section, "*administrative entity*" means cities identified by the authority that administer local disaster recovery programs and councils of government.

2009 Acts, ch 170, §1, 11; 2011 Acts, ch 118, §87, 89

[SP] Section is effective March 16, 2009, and applies retroactively to July 1, 2008, for the fiscal year beginning on that date; funding; 2009 Acts, ch 170, §11

DIVISION XXVII

ENTREPRENEUR INVESTMENT AWARDS PROGRAM

15E.362 Entrepreneur investment awards program.

1. The authority shall establish and administer an entrepreneur investment awards program for purposes of providing grants to programs that provide technical and financial assistance to entrepreneurs seeking to create, locate, or expand a business in the state if the business derives or intends to derive more than ten percent of its gross sales from markets outside of the state. Financial assistance under the program shall be provided from the entrepreneur investment awards program fund created in section 15E.363.

2. In determining whether an entrepreneur assistance program qualifies for a grant under the entrepreneur investment awards program, the authority shall find that the entrepreneur assistance program demonstrates all of the following:

a. The entrepreneur assistance program expended at least five hundred thousand dollars in the program's previous fiscal year to provide technical and financial assistance to entrepreneurs seeking to create, locate, or expand a business in the state if the business derives or intends to derive more than ten percent of its gross sales from markets outside of the state. The five hundred thousand dollars in expenditures in the program's previous fiscal year shall not include grants awarded pursuant to this section or any funds invested in clients' businesses.

b. The entrepreneur assistance program provides services to meet the broad-based needs of entrepreneurs seeking to create, locate, or expand a business in the state if the business derives or intends to derive more than ten percent of its gross sales from markets outside of the state.

c. The entrepreneur assistance program communicates with and cooperates with other entrepreneur assistance programs and similar service providers in the state.

d. The entrepreneur assistance program engages various funding sources for entrepreneurs seeking to create, locate, or expand a business in the state if the business derives or intends to derive more than ten percent of its gross sales from markets outside of the state.

e. The entrepreneur assistance program communicates with and cooperates with various entities for purposes of locating suitable facilities for clients of the entrepreneur assistance program.

f. The entrepreneur assistance program is an Iowa-based business.

3. In determining whether an entrepreneur assistance program qualifies for a grant under the entrepreneur investment awards program, the authority may consider any of the following:

a. The business experience of the professional staff employed or retained by the entrepreneur assistance program.

b. The business plan review capacity of the entrepreneur assistance program's professional staff.

c. The expertise of the entrepreneur assistance program's professional staff in all aspects of business disciplines.

d. The entrepreneur assistance program's professional staff's access to external service providers including legal, accounting, marketing, and financial services.

4. Upon being awarded a grant under this section, the entrepreneur assistance program shall accept client referrals from the economic development authority.

5. The amount of a grant awarded to a qualifying entrepreneur assistance program shall not exceed the lesser of the following for any fiscal year:

a. An amount equal to twenty-five percent of the funds expended by the qualifying program in the program's previous fiscal year to provide technical and financial assistance to entrepreneurs seeking to create, locate, or expand a business in the state if the business derives or intends to derive more than ten percent of its gross sales from markets outside of the state. For purposes of this paragraph, *"funds expended"* shall not include grants awarded pursuant to this section or any funds invested in clients' businesses.

b. An amount equal to one hundred percent of funds raised by the entrepreneur assistance program in the previous fiscal year from private foundations, federal or local government funds, financial institutions, or individuals.

c. Two hundred thousand dollars.

6. The grant awarded to a qualifying entrepreneur assistance program shall only be used for the purpose of the operating costs incurred by the program.

7. The economic development authority board may approve, deny, or defer each application for a grant from the entrepreneur investment awards program fund created in section 15E.363.

8. The maximum amount of the total grants awarded by the authority for the entrepreneur investment awards program shall not exceed one million dollars in a fiscal year. The authority shall award the grants on a first-come, first-served basis.

9. The authority may contract with outside service providers for assistance with the grant program described in this section or may delegate the administration of the program to the Iowa innovation corporation pursuant to section 15.106B.

10. The authority shall not award a grant to an entrepreneur assistance program from the entrepreneur investment awards program fund after June 30, 2014. It is the intent of the general assembly to review and assess the success of the entrepreneur investment awards program based on the report provided by the economic development authority.

11. The economic development authority shall conduct a comprehensive review of the entrepreneur investment awards program and shall, by December 31, 2013, submit a report of the findings of the review, as well as any recommendations and cost projections of its recommendations, to the governor and the general assembly. The report shall consist of the following information:

a. The number of grants awarded, the total amount of the grants awarded, the total amount expended on the entrepreneur investment awards program, and the number of entrepreneur investment awards to entrepreneur assistance programs that were the subject of repayment or collection activity.

b. The number of applications received by the authority for the program and the status of the applications.

c. For each entrepreneur assistance program receiving moneys from the entrepreneur investment awards program fund, the following information:

(1) The amount the entrepreneur assistance program received from the entrepreneur investment awards program fund.

(2) The number of entrepreneurs creating a business in the state that were assisted by the entrepreneur assistance program and the number of new jobs associated with the business.

(3) The number of entrepreneurs locating or expanding a business in the state that were assisted by the entrepreneur assistance program and the number of new or retained jobs associated with the business.

(4) The entrepreneur assistance program's location.

(5) The amount, if any, of private and local matching funds received by the entrepreneur assistance program.

d. The number of clients referred by the authority to an entrepreneur assistance program receiving moneys from the entrepreneur investment awards program fund.

e. An evaluation of the investment made by the state of Iowa in the entrepreneur investment awards program.

f. Any other information the authority deems relevant to assessing the success of the entrepreneur investment awards program.

2012 Acts, ch 1126, §21
Referred to in §15.106B, 15E.363

15E.363 Entrepreneur investment awards program fund.

1. An entrepreneur investment awards program fund is created in the state treasury under the control of the authority and consisting of any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the authority for placement in the fund.

2. Payments of interest, repayments of moneys provided, and recaptures of moneys provided shall be deposited in the fund.

3. The fund shall be used to provide grants under the entrepreneur investment awards program established in section 15E.362.

4. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on moneys in the fund shall be credited to the fund.

2012 Acts, ch 1126, §22
Referred to in §15.335B, 15E.362