



SF 580 – Technology Industry, Economic Incentives (LSB2024SV)
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Fiscal Note Version – New

Description

Senate File 580 prohibits the State or political subdivisions from entering into contracts with, or providing tax incentives or any other economic benefits to, certain technology companies that affect the ability of Iowans to view, comment, or otherwise interact with certain content on a company's Internet site, as decided by a court. The Bill requires that, before public funds are used for economic development, the public body must consider whether a court has found that the person to whom the funds will be dispersed has violated a provision of the newly established Iowa Code chapter 554E, and whether the person is involved in litigation in which it has been alleged that the person violated Iowa Code chapter 554E.

If a political subdivision enters into a contract or provides incentives to a company found in violation of the Bill, the amount of taxes from the previous fiscal year certified back to the county auditor from the Department of Management will be reduced by 10.0%, and another 5.0% in a subsequent year.

Any governmental entity will be prohibited from entering into a contract or providing economic incentives to a company found in violation of the Bill for a period of 20 years from the date of a court's finding. Tax incentives and economic benefits affected by the Bill include tax credits, assistance under Iowa Code section [15.335B](#), sales tax exemptions or refunds, property tax rebates or grants, and any other benefits previously claimed by a company going back to January 1, 2001. Any previously awarded benefits will be reclaimed by the State or local government jurisdiction.

The Bill requires the Attorney General to provide enforcement guidance to political subdivisions in any contractual obligations going forward, and requires the Attorney General to enforce provisions in the Bill, including appealing a district court's decision if a company prevails in district court in an action under Iowa Code chapter 554E and filing an application for further review with the Supreme Court if a company prevails in the Court of Appeals. The Attorney General must also, within 60 days of the effective date of the Bill, provide an Internet site available to the public so individuals can report any instances of potential censorship, which the Attorney General must investigate within 30 days of receipt. The Attorney General must adopt rules to administer the Bill. The Bill also authorizes governmental entities and individuals to intervene in a legal action that involves them.

The Bill includes a State mandate and makes inapplicable Iowa Code section [25B.2\(3\)](#), which would relieve a political subdivision from complying with a State mandate if funding for the cost of the State mandate is not provided.

The Bill takes effect upon enactment.

Background

The Iowa Economic Development Authority (IEDA) administers State tax credits, with a statutory cap of \$155.0 million in FY 2021. The IEDA has the authority through Iowa Code section [15.333](#) to award Investment Tax Credits. Businesses may claim a tax credit on corporate, income, and insurance premium taxes equal to a percentage of the new investments directly related to new jobs created or retained by a project. Eligible investments include the cost of machinery and equipment purchased for use in the operation of the business, the purchase price of real property and any buildings and structures located on the property, the cost of improvements made to the property, and base rent paid by a business to a third-party developer. Since 2007, the IEDA has awarded \$45.7 million in Investment Tax Credits to four technology firms for four projects totaling \$2.8 billion in investments that involve 203 new and retained jobs. Most of these credits are from IEDA's High Quality Jobs Program (HQJP), which provides tax benefits to eligible companies that create high-paying jobs and make capital investments. The HQJP has a statutory cap of \$105.0 million per year to use in tax credits. In FY 2020, IEDA awarded \$26.0 million in HQJP tax credits to 24 projects. Tax credits can be claimed for five years in most cases.

The IEDA is also authorized to provide sales and use tax exemptions to eligible businesses, including contractors and subcontractors on a project after construction is completed, as part of the HQJP. In FY 2019, \$28.3 million was claimed in State sales and use taxes, \$24.6 million due to the HQJP. Since 2007, the IEDA has awarded \$84.1 million in sales and use tax exemptions to three technology corporations for eight projects totaling \$4.9 billion in investments that involve 391 new and retained jobs. Sales and use tax exemptions to eligible businesses can also affect the Local Option Sales Tax (LOST) in jurisdictions with local sales and use taxes.

Local governments also have the authority to award eligible businesses property tax credits and economic incentives in conjunction with IEDA's tax credit programs, including the HQJP. Since 2007, four technology companies have received full or partial property tax exemptions in conjunction with IEDA's tax credit programs for six projects totaling \$2.7 billion. Tax-increment financing (TIF) and infrastructure improvements have also been awarded by local governments to technology corporations for five projects. Iowa Code section [427.1](#) allows property tax exemptions for web search portal businesses and data center businesses. In 2020, there was \$766.92 million in assessed value derived from these exemptions.

Assessed property evaluations within a school district affect the amount of State General Fund dollars sent to each school district. The State, by operation of the State School Foundation Aid Formula, funds school districts up to 87.0% of total funding after a uniform levy of \$5.40 is assessed on all property within a district. Beyond 87.0%, an additional levy is assessed on all property within a district to reach 100.0% of per pupil funding for a school district.

Per Iowa Code section [24.17](#), local governments and school districts must certify their budgets not later than March 31 and April 15, respectively, each fiscal year, with a copy sent to the county auditor and the State Appeal Board within the Department of Management. By June 15 of each fiscal year, the Department of Management certifies taxes available to the county auditor for the local government or school district.

Assumptions

- There are no potential legal decisions over the next two years that would cause the State to recoup any previously awarded benefits until FY 2024 at the earliest.
- The Legislative Services Agency (LSA) cannot assume the result of theoretical legal proceedings. For purposes of this fiscal note, however, the LSA will illustrate the fiscal impact if one taxpayer that has signed contracts with the State of Iowa and local government jurisdictions, and has been operational in the State since 2019, is found in court to have violated provisions of the Bill prohibiting online censorship.
- The Bill would lead to the revocation of tax credits provided under Iowa Code section 15.335B and the 100.0% recapture of any such tax credits that have already been claimed by a taxpayer, including tax credits awarded through the HQJP, including both Investment Tax Credits and Sales and Use Tax Refunds, beginning in FY 2024.
- The Bill provides for the 100.0% recapture of tax credits, tax exemptions, and other tax benefits claimed in prior years. The estimated impacts associated with the recapture of these prior-year claims are provided separately in this estimate. For purposes of this estimate, these are assumed to occur in FY 2024 and, in the case of property taxes, FY 2025.
- Prospective Investment Tax Credit and sales tax impacts would occur beginning FY 2024, and prospective property tax impacts would begin with assessment year (AY) 2024 and would affect property tax revenues beginning with FY 2026.
- The estimated timing of fiscal impacts resulting from the revocation of unclaimed tax credits that have already been allocated or awarded reflects the projected timing of awarded claims under current law, according to Iowa Department of Revenue (IDR).
- Estimates of the currently exempt sales made nonexempt by the proposal are based on an Iowa IDR analysis of sales reported as exempt by taxpayers assumed to be affected by the proposal. It is assumed that the share of currently exempt sales tax authorized by Iowa Code section [423.3](#)(92), (93), and (95) and made nonexempt by the proposal is proportionate among all affected taxpayers.
- Estimates of property tax impacts are based on the value of commercial property receiving web/data exemptions under Iowa Code section 427.1(35), (36), and (37) is from the IDR abstracts of assessment. The value of commercial property receiving web/data exemptions was \$766.92 million in AY 2020. This fiscal note assumes that 20.0% of the value will be affected by the Bill.
- Estimated property tax impacts assume a levy rate of \$37.21430 per \$1,000 of taxable valuation and a commercial rollback rate of 90.0%.
- Property tax recapture would create the need for credits to the General Fund for past years' per pupil payment, or a reduction in future year School Aid Formula payments.
- Growth in estimated impacts arising from the elimination of sales tax exemptions and property tax exemptions and rebates reflects 2.0% annual inflation.
- Changes to corporate income tax and sales and use tax liability as a result of the proposal are estimated to lead to General Fund revenue increases. Changes to sales and use tax liability also affect LOST assessed at 1.0%. Changes to property tax liability are assumed to decrease expenditures from the General Fund by operation of the State School Foundation Aid Formula; otherwise such changes will lead to revenue increases for affected local jurisdictions.
- Local government jurisdictions do not violate the section of the Bill that would result in any removal of appropriations or tax revenues.
- The Attorney General would need to establish a new division to handle and investigate

complaints, then litigate against multiple large technology companies at the same time.

- The Attorney General would hire additional positions to meet the requirements of the Bill beginning in FY 2022.
- The Attorney General may need to hire 3.0 full-time equivalent (FTE) investigators. If an experienced investigator is hired, the cost would be up to approximately \$117,000 per FTE position. However, the entry-level cost of an Investigator 4 position would be approximately \$72,000. For estimation purposes, a midpoint is used for the estimated cost.
- The Attorney General may need to hire 3.0 FTE attorneys. If an experienced attorney is hired, the cost would be up to approximately \$156,036 per FTE position. However, the cost of an entry-level Assistant Attorney General 3 position is \$115,417. For estimation purposes, a midpoint is used for the estimated cost.

Fiscal Impact

Tax Impact to State and Local Governments

If one taxpayer is adversely affected through a legal decision, the Bill is estimated to increase General Fund revenue by \$21.0 million beginning in FY 2024 before dropping to a \$4.7 million increase in FY 2025, and remaining relatively stable through FY 2030. The Bill increases revenue to local jurisdictions by \$12.4 million beginning in FY 2024 before dropping to a \$4.7 million positive impact in FY 2025 and increasing slightly through FY 2030. **Table 1** below outlines the estimated fiscal impact to the General Fund and local government jurisdictions from the Bill.

Fiscal Year	Estimated General Fund Fiscal Increases (\$ Millions)							Estimated Local Jurisdiction Fiscal Increases (\$ Millions)				
	Revocation of Tax Credits Allocated or Awarded	Recapture of Tax Credits Previously Claimed	Change in State School Foundation Aid	Recapture of State School Foundation Aid Associated with Property Tax Incentives for Prior Years	Elimination of Sales and Use Tax Exemptions	Recapture of Past Sales and Use Tax Exemptions	Total General Fund Impact	Property Tax	Recapture of Property Tax Incentives for Prior Years	Local Options Sales Tax (LOST)	Recapture of Past Local Option Sales Tax (LOST)	Total Impact on Local Jurisdictions
FY 2022	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
FY 2023	-	-	-	-	-	-	-	-	-	-	-	-
FY 2024	1.7	10.0	-	2.2	1.4	5.7	21.0	-	11.2	0.2	0.9	12.4
FY 2025	2.4	-	-	0.9	1.5	-	4.7	-	4.5	0.2	-	4.7
FY 2026	2.0	-	0.9	-	1.5	-	4.4	4.6	-	0.2	-	4.8
FY 2027	3.4	-	0.9	-	1.5	-	5.8	4.7	-	0.3	-	4.9
FY 2028	1.9	-	0.9	-	1.5	-	4.3	4.8	-	0.3	-	5.0
FY 2029	1.2	-	0.9	-	1.6	-	3.7	4.9	-	0.3	-	5.1
FY 2030	1.7	-	1.0	-	1.6	-	4.3	5.0	-	0.3	-	5.2

Office of the Attorney General

The Attorney General estimates it would need to hire three investigators and three attorneys to fulfill the requirements of this Bill. The annual cost increase to the Attorney General would be approximately \$690,000 beginning in FY 2022 (**Table 2**).

Table 2 — Attorney General FTE Costs

	Salary and Benefits	Est. FTE Positions Required	Total Cost
Investigator 4	\$ 94,000	3.0	\$ 282,000
Asst. Atty General 3	136,000	3.0	408,000
			\$ 690,000

There may be additional and ongoing costs for the setup and maintenance of the complaint process, but an estimate cannot be made at this time.

Sources

Iowa Economic Development Authority
Iowa Department of Revenue
Iowa Department of Justice, Office of the Attorney General
LSA analysis

/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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