

F I N A L R E P O R T

PUBLIC FUNDS FOR ECONOMIC DEVELOPMENT STUDY COMMITTEE

March, 1988

The Public Funds for Economic Development Study Committee was established by the Legislative Council to monitor and study the effectiveness of public and private funds used for economic development purposes. The Committee was to examine federal, state, and local sources of funding, and document the impact of past expenditures of public funds designed to stimulate economic development. Recommendations to increase the efficiency of public spending for economic development, including matching funds from private sources, were to be included in the final report.

Members serving on the Study Committee were:

Senator Joe Welsh, Co-chairperson
Representative Mike Connolly, Co-chairperson
Senator Leonard Boswell
Senator Jack Nystrom
Senator Jack Rife
Senator Al Sturgeon
Representative William Harbor
Representative Mary Lundby
Representative Wayne McKinney
Representative Mike Peters

The Study Committee was initially granted three meetings and asked for and was granted an additional meeting so as to complete its final recommendations. Meetings were held September 11 and October 5, 1987, and January 6 and January 13, 1988.

At the first two meetings personnel from the Department of Economic Development provided information on financial assistance programs and job training programs under which the department provides assistance or which it oversees. In conjunction with the job training programs, representatives from two community colleges, officials from a city and county, and a participating business made comments. The Department of Transportation provided information on the progress of the RISE program.

During the third meeting, the Study Committee heard further comments, rationale, and views from the Departments of Economic Development and Transportation concerning specific projects for which the Departments provided assistance.

The Study Committee concluded its work with a short meeting at which it voted to state in its final report and to express to the

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Legislative Council and the General Assembly the Study Committees' displeasure with the manner in which the Department of Transportation presented themselves before the Committee, especially the lack of recordkeeping and administration of the RISE program.

The Study Committee voted out, without recommendation, the following bill to the General Assembly:

An Act relating to additional criteria, standards, guidelines, and requirements under state grant, loan, or other assistance programs.

The Study Committee had no objection to the filing of a minority report by members. Senator Rife and Representative Harbor submitted a minority report which it attached. The reference to HSB 736 in the report is the number given to the Study Committee bill.

SENATE FILE _____
BY (PROPOSED PUBLIC FUNDS
FOR ECONOMIC DEVELOPMENT
STUDY COMMITTEE BILL)

WITHOUT RECOMMENDATION

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to additional criteria, standards, guidelines,
2 and requirements under state grant, loan, or other assistance
3 programs.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 15A.5 STATE ASSISTANCE CRITERIA.

2 In addition to any other criteria, standards, guidelines,
3 or requirements that have been established under any state
4 grant, loan, or other assistance program for awarding,
5 granting, or providing state assistance to or for the benefit
6 of a business in furtherance of economic development or to a
7 political subdivision for awarding, granting, or providing
8 assistance to or for the benefit of a business in furtherance
9 of economic development, the following factors and
10 requirements shall be considered in awarding, granting, or
11 providing such assistance:

12 1. The impact of the proposed project on other businesses
13 in competition with the business being considered for
14 assistance. The overseer of the assistance program shall
15 identify existing businesses within an industry in competition
16 with the business being considered for assistance. The
17 overseer shall determine the probability that the proposed
18 financial assistance will displace employees of the existing
19 businesses and shall consider the level of excess production
20 capacity within an industry when making this determination.
21 In determining the impact on businesses in competition with
22 the business being considered for assistance, jobs created as
23 a result of other jobs being displaced elsewhere in the state
24 shall not be considered direct jobs created.

25 2. The economic impact to the state of the proposed
26 project. In measuring the economic impact the overseer of the
27 assistance program shall award more points for the following:

28 a. A business with a greater percentage of sales out-of-
29 state or of import substitution.

30 b. A business with a higher proportion of in-state
31 suppliers.

32 c. A project which would provide greater diversification
33 of the state economy.

34 d. A business with fewer in-state competitors.

35 e. A potential for future industrial growth.

- 1 f. A project which has a greater consistency with the
2 state strategic plan.
- 3 g. A project which does not involve retail operations,
4 except for those involving tourism.
- 5 3. The level of compliance of the business with the
6 federal Occupational Safety and Health Act and other business
7 safety regulations, the quality of the business' relations
8 with labor, the level of fairness in its dealings with its
9 employees, and the amount of business ethics shown by the
10 business.
- 11 4. The quality of jobs to be provided. Jobs that have a
12 higher wage scale, have a lower turnover rate, are full-time,
13 or are career-type positions are considered higher in quality.
14 When the assistance is in the form of grants, businesses that
15 have wage scales substantially below that of existing Iowa
16 businesses should be rated as providing the lowest quality of
17 jobs and should therefore be given the lowest ranking for
18 providing such assistance.
- 19 5. Past violations of state or federal environmental laws
20 and regulations, the federal Occupational Safety and Health
21 Act and other worker safety laws and regulations, traffic and
22 transportation laws and regulations, and consumer product
23 safety and consumer fraud laws and regulations.
- 24 6. A violation of any part of the United States or Iowa
25 civil or criminal codes shall disqualify the business or its
26 subsidiaries from state assistance for one year from the
27 termination of the violation. However, assistance shall not
28 be provided to a business which has a record of consistent
29 violations of the laws of this state, if the number of
30 violations over a period of time tend to show a pattern of
31 disregard for the law.
- 32 7. If a business has, within three years of application
33 for assistance, acquired or merged with an Iowa corporation or
34 company, the business is not eligible if the business has not
35 made a good-faith effort to hire the workers of the merged or

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1 acquired company. A good faith effort is defined as offering
 2 to rehire at least ninety percent of the old company's workers
 3 at comparable jobs with similar compensation and benefits.

4 8. To be eligible for assistance a business shall provide
 5 for a preference for hiring residents of the state.

6 9. All environmental permits must be granted and
 7 regulations met before approval of assistance.

8 For purposes of this section, state grant, loan, or
 9 assistance program includes, but is not limited to, the Iowa
 10 plan fund for economic development, the RISE fund, the jobs
 11 training programs under chapters 7B, 280B, and 280C, the small
 12 business loan and targeted small business loan guarantee
 13 programs under chapter 220, and federal community development
 14 block grants. Moneys available from an agency of the federal
 15 government, the distribution, use, or awarding of which is
 16 controlled or overseen by an agency of the state government,
 17 is considered a state grant, loan, or assistance program for
 18 purposes of this section.

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EXPLANATION

20 The bill sets additional factors to be used in considering
 21 which businesses will be awarded grants, loans, or assistance
 22 under CEBA, RISE, job training programs, small business loan
 23 guarantee programs, federal community development block
 24 grants, and other state grant, loan, or assistance programs.
 25 The factors to be used in considering who will receive
 26 assistance includes the impact of the proposed project on
 27 other businesses in competition with the business to receive
 28 the assistance; the economic impact to the state as a whole;
 29 the level of compliance by the business with OSHA and other
 30 safety standards; the quality of jobs to be offered by the
 31 business; past civil or criminal violations of state or
 32 federal laws; and preferences to be given for hiring residents
 33 of the state.

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COMPANION TO LSB 8073HI

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MINORITY REPORT

This report takes exception to the Final Report of the Study Committee for a number of reasons.

The Study Committee's indecisiveness is of particular concern to us. The Study Committee voted to send HSB 736 to the General Assembly for consideration, but it failed to recommend any particular fate for the bill. We are, therefore, inclined to recommend that no further legislative action should be taken on the study bill in order to help determine its fate. Such a recommendation is useful because it imparts some finality to the work of the Study Committee.

We also point out that the nine or more factors, guidelines and requirements listed in the study bill may be inconsistent with provisions of the federal Job Training Partnership Act (JTPA). For example, section 121(b)(1) of JTPA requires the establishment of "criteria for coordinating activities under this Act...with programs and services provided by State and local...agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State." However, such "criteria shall not affect local discretion concerning the selection of eligible participants or service providers...." (Emphasis added.) Yet the study bill directly affects "local discretion" in selecting which businesses may be "service providers" by denying eligibility for assistance to any business which does not extend hiring preferences to residents of Iowa. Clearly, conditions of assistance such as this one directly affect "local discretion" in selecting which businesses may be "service providers."

Furthermore, such inconsistencies may be fatal for the study bill because section 126 of JTPA precludes any state legislation affecting the implementation of JTPA which is inconsistent with JTPA provisions. Therefore, to avoid possible litigation in courts of law over the constitutionality of the study bill, we recommend that the study bill be withdrawn and that no further legislative time be taken or effort expended on these matters. Otherwise, at the very least, an Official Opinion of the Attorney General on the question of inconsistency would be in order.

We are also quite concerned about the integrity of the study committee process. The work of this study committee has produced a study bill the provisions of which affect all parties involved in the economic development grant and loan award process, especially the businesses on whose behalf CEBA, RISE, JTPA and federal CDBG funds may be sought. Yet, before producing the study bill in question the Study Committee questioned and heard comments and suggestions from every participant in the whole award process, except the businesses that have applied for CEBA, RISE JTPA and federal CDBG funds. Ironically, these businesses are the only participants in the award process without whom economic development would be virtually impossible! At best, the resulting study bill reflects bias, because all the relevant evidence which was

discoverable was not discovered before the study bill was written.

The integrity of the study committee process is in jeopardy on another front too. We express our displeasure with the displeasure of the majority over "the manner in which the Department of Transportation presented themselves before the committee...." Perhaps the department would have presented itself in a better light and manner if it had the assistance of counsel at the time of questioning! If investigative hearings are to be held in an adversarial environment replete with accusations and innuendo, the target of the inquisition ought to have certain rights, including the right to defense counsel, the right to have defense counsel appointed if counsel cannot be afforded, and the right to cross-examine the witnesses against it. Absent such protections, the process becomes a witch hunt. Unfortunately, the majority has succumbed to the temptation to burn the department at the stake.

Finally, we take notice of the following:

- *Sufficient guidelines for the application process already exist and no new legislative action is required.

- *If action is required to correct unanticipated errors in the application process itself, appropriate changes should be made by administrative rule because administrators participate in the application process on a daily basis which makes them more qualified than the Legislature to recognize problems and develop solutions to those problems.

- *The importance of private enterprise, especially the meat packing industry, to the health of Iowa's economy cannot be overemphasized given Iowa's comparative economic advantage in agriculture.

- *If federal funds are available for economic development purposes, such as JTPA funds, it is questionable whether any State in the Union may constitutionally condition awards of financial assistance on the fulfillment of a requirement that only citizens of this State or that State may be hired by award recipients. Besides, Iowa may never be able to entice people to relocate here or the businesses that employ them with these requirements in place.

- *It is unwise to assume that previous employment experience with one company is sufficient job training to qualify one for employment with another company in the same industry. Recognizing the differences in the way competitors operate is the key to understanding the study bill's shortcomings in this respect. Operational differences affecting worker safety, the quality of the product produced, and overhead costs (such as the amount of liability and workers' compensation insurance premiums), may produce significant competitive advantages or disadvantages. For example, unless the previous work experience is identical and not merely comparable to the new job opportunity, a rehired worker may perform his or her duties in a

manner which may not meet the possibly better safety standards of the acquiring company but which meet the lower safety standards of the defunct company. The inferior training may result in injury to the rehired worker, which may cause an increase in workers' compensation insurance premiums for the acquiring company. Inferior training may also result in poorer quality products. In either case, the result is a competitive disadvantage for the acquiring company and, in the former case, the result may also be injury to the worker. Yet the study bill requires companies which acquire or merge with Iowa companies to offer "to rehire at least 90 percent of the old company's workers at comparable jobs with similar compensation and benefits" or else be ineligible for assistance. If the need for business assistance is great enough, the study bill may have the unintended effect of encouraging acquiring companies to hire less than qualified workers to be eligible for assistance. The study bill, therefore, provides misguided policy directions for the state. And although we encourage rehiring workers who were previously trained in identical jobs with other companies, rehiring practices should never be mandated as conditions for receiving state assistance.

*"Business ethics" is non-quantifiable. Yet the study bill requires consideration of "the amount of business ethics shown by the business" which is applying for assistance. The requirement is absurd.

*If a community suffers a housing shortage due to business and employment expansion in the area, community leaders must take primary responsibility for providing adequate housing -- perhaps by securing Community Development Block Grants -- and should work and cooperate with the expanding industry to provide the needed housing, especially if the industry offers to provide housing for its employees.

*Interstate competition for business relocations and economic development generally is unproductive for the nation as a whole, since one State's gain is another State's loss. Iowa is no less a part of the Union than any other state. Let Iowa be the first to persuade businesses to relocate here not because of direct financial incentives but because of Iowa's superb quality of life, education, and fairness in business regulation and taxation.

We dissent.

Rep. William N. Darbo
Sen. Jack Rife