



OFFICE OF THE GOVERNOR

THOMAS J. VILSACK
GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

June 9, 2005

The Honorable Chester Culver
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 868, an Act relating to economic development, business, workforce, and regulatory assistance and tax credits, property tax assessment, to excise taxes on E-85 gasoline, to issuance of revenue bonds, and to state developmental, research, and regulatory oversight, and including effective date and retroactive applicability provisions.

The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink that reads "Thomas J. Vilsack".

Thomas J. Vilsack
Governor

TJV:jmc

cc: Secretary of the Senate
Chief Clerk of the House





HOUSE FILE 868

AN ACT

RELATING TO ECONOMIC DEVELOPMENT, BUSINESS, WORKFORCE, AND REGULATORY ASSISTANCE AND TAX CREDITS, PROPERTY TAX ASSESSMENT, TO EXCISE TAXES ON E-85 GASOLINE, TO ISSUANCE OF REVENUE BONDS, AND TO STATE DEVELOPMENTAL, RESEARCH, AND REGULATORY OVERSIGHT, AND INCLUDING EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISIONS.

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

DIVISION I

GROW IOWA VALUES FUND

Section 1. NEW SECTION. 15G.108 GROW IOWA VALUES FUND.

1. A grow Iowa values fund is created in the state treasury under the control of the department of economic development consisting of moneys appropriated to the department. 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. The fund shall be administered by the department, which shall make expenditures from the fund consistent with this chapter and pertinent Acts of the general assembly. Any financial assistance provided using moneys from the fund may be provided over a period of time of more than one year. Payments of interest, repayments of moneys loaned pursuant to this chapter, and recaptures of grants or loans shall be deposited in the fund.

2. In awarding financial assistance in a fiscal year from moneys appropriated to the grow Iowa values fund, the department shall commit, obligate, or promise not more than fifty percent of the moneys appropriated from the grow Iowa values fund pursuant to section 15G.111, subsection 1, if enacted, for use during the first fiscal year following the

fiscal year in which the financial assistance is awarded and not more than twenty-five percent of the moneys appropriated from the grow Iowa values fund pursuant to section 15G.111, subsection 1, if enacted, for use during the second fiscal year following the fiscal year in which the financial assistance is awarded.

Sec. 2. Section 15G.111, subsection 2, if enacted by 2005 Iowa Acts, House File 809, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. The department may expend additional moneys that may become available for purposes of financial assistance to a single bioscience development organization determined by the department to possess expertise in the promotion and commercialization of biotechnology entrepreneurship as described in and for the purposes set forth in unnumbered paragraph 2.

Sec. 3. NEW SECTION. 15G.112 FINANCIAL ASSISTANCE.

1. In order to receive financial assistance from the department from moneys appropriated from the grow Iowa values fund, the average annual wage, including benefits, of new jobs created must be equal to or greater than one hundred thirty percent of the average county wage. For purposes of this section, "average county wage" and "benefits" mean the same as defined in section 15H.1.

2. An applicant may apply to the Iowa economic development board for a waiver of the wage requirements in subsection 1.

3. In awarding moneys appropriated from the grow Iowa values fund, the department shall give special consideration to projects that include significant physical infrastructure components designed to increase property tax revenues to local governments.

DIVISION II

IOWA ECONOMIC DEVELOPMENT BOARD

Sec. 4. Section 15.103, Code 2005, is amended to read as follows:

15.103 ECONOMIC DEVELOPMENT BOARD.

1. a. The Iowa economic development board is created, consisting of ~~eleven~~ fifteen voting members appointed by the governor and seven ex officio nonvoting members. The ex officio nonvoting members are four legislative members; one president, or the president's designee, of the university of northern Iowa, the university of Iowa, or Iowa state

university of science and technology designated by the state board of regents on a rotating basis; and one president, or the president's designee, of a private college or university appointed by the Iowa association of independent colleges and universities; and one superintendent, or the superintendent's designee, of a community college, appointed by the Iowa association of community college presidents. The legislative members are two state senators, one appointed by the president of the senate, after consultation with the majority leader of the senate, and one appointed by the minority leader of the senate, after consultation with the president of the senate, from their respective parties; and two state representatives, one appointed by the speaker and one appointed by the minority leader of the house of representatives from their respective parties. Not more than ~~six~~ eight of the voting members shall be from the same political party. Beginning with the first appointment to the board made after the effective date of this Act, at least one voting member shall have been less than thirty years of age at the time of appointment. ~~The secretary of agriculture or the secretary's designee shall be one of the voting members.~~ The governor shall appoint the ~~remaining ten~~ voting members of the board for a term of four years beginning and ending as provided by section 69.19, subject to confirmation by the senate, and the governor's appointments shall include persons knowledgeable of the various elements of the department's responsibilities.

b. Each of the following areas of expertise shall be represented by at least one member of the board who has professional experience in that area of expertise:

- (1) Finance, insurance, or investment banking.
- (2) Advanced manufacturing.
- (3) Statewide agriculture.
- (4) Life sciences.
- (5) Small business development.
- (6) Information technology.
- (7) Economics.
- (8) Labor.
- (9) Marketing.
- (10) Entrepreneurship.

c. At least nine members of the board shall be actively employed in the private, for-profit sector of the economy.

2. A vacancy on the board shall be filled in the same manner as regular appointments are made for the unexpired portion of the regular term.

3. The board shall meet in May of each year for the purpose of electing one of its voting members as chairperson and one of its voting members as vice chairperson. However, the chairperson and the vice chairperson shall not be from the same political party. The board shall meet at the call of the chairperson or when any ~~six~~ eight members of the board file a written request with the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the board. A majority of the voting members constitutes a quorum.

4. Members of the board, the director, and other employees of the department shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses shall be paid from appropriations for those purposes and the department is subject to the budget requirements of chapter 8. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.

5. If a member of the board has an interest, either direct or indirect, in a contract to which the department is or is to be a party, the interest shall be disclosed to the board in writing and shall be set forth in the minutes of a meeting of the board. The member having the interest shall not participate in action by the board with respect to the contract. ~~This paragraph does not limit the right of a member of the board to acquire an interest in bonds, or limit the right of a member to have an interest in a bank or other financial institution in which the funds of the department are deposited or which is acting as trustee or paying agent under a trust indenture to which the department is a party.~~

6. As part of the organizational structure of the department, the board shall establish a due diligence committee and a loan and credit guarantee committee composed of members of the board. The committees shall serve in an advisory capacity to the board and shall carry out any duties assigned by the board in relation to programs administered by the department.

7. For the transitional period beginning July 1, 2005, and ending June 30, 2006, the composition of the voting members of the board shall be determined by the governor and shall be

composed of members of the Iowa economic development board in existence on June 30, 2005, and members of the grow Iowa values board as it existed on June 15, 2004. During the transitional period stated in this subsection, the requirements of subsection 1, paragraphs "a" and "b", shall not apply. This subsection is repealed June 30, 2006.

Sec. 5. Section 15.104, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 9. By January 15 of each year, submit a report to the general assembly and the governor that delineates expenditures made under each component of the grow Iowa values fund. In addition, the department shall provide in the report the following information regarding each business finance project and in the aggregate for projects funded during the previous fiscal year:

a. The number of net new jobs created as of the time of reporting. For purposes of this paragraph, "net new jobs" means the number of jobs that have been created pursuant to the new or retained positions identified in the contract.

b. The average wage of the jobs created as of the time of reporting.

c. The amount of capital investment invested as of the time of reporting.

d. The location.

e. The amount, if any, of private and local government moneys expended as of the time of reporting.

f. The amount of moneys expended on research and development activities that were not included in the jobs created and wages paid criteria.

g. The number of jobs retained as of the time of reporting.

NEW SUBSECTION. 10. By January 15 of each year, submit a report to the general assembly and the governor identifying the number of minority-owned businesses that received financial assistance from moneys appropriated from the grow Iowa values fund during the previous calendar year. The report shall provide an analysis as to the reasons why more minority-owned businesses have not applied for assistance and include recommendations regarding how to encourage the creation of more minority-owned businesses. This subsection is repealed June 30, 2007.

NEW SUBSECTION. 11. By January 15 of each year, submit a report to the general assembly and the governor identifying the number of woman-owned businesses that received financial assistance from moneys appropriated from the grow Iowa values fund during the previous calendar year. The report shall provide an analysis as to the reasons why more woman-owned businesses have not applied for assistance and include recommendations regarding how to encourage the creation of more woman-owned businesses. This subsection is repealed June 30, 2007.

Sec. 6. APPOINTMENTS DURING BIPARTISAN CONTROL. Appointments of general assembly members to the Iowa economic development board, which are to be made by the president of the senate or by the majority or minority leader of the senate during the period that the senate for the Eighty-first General Assembly is composed of an equal number of members of each major political party, shall be made jointly by the co-presidents or co-floor leaders, as appropriate, in accordance with Senate Resolution 1, adopted during the 2005 legislative session.

DIVISION III
REGULATORY ASSISTANCE

Sec. 7. NEW SECTION. 15E.19 REGULATORY ASSISTANCE.

1. The department of economic development 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 department of economic development.
- 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 department of economic development.
- d. Require regulatory staff participation in negotiations and discussions with businesses.
- e. Notify the department of economic development regarding proposed rulemaking activities that impact a regulatory program and any subsequent changes to a regulatory program.

2. The department of economic development 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.

3. By January 15 of each year, the department of economic development shall submit a written report to the general assembly regarding the provision of regulatory assistance by state agencies, including the department's efforts, and its recommendations and proposed solutions, to streamline the process of issuing permits to business.

DIVISION IV

ECONOMIC DEVELOPMENT REGIONS

Sec. 8. NEW SECTION. 15E.21 IOWA BUSINESS RESOURCE CENTERS.

The department shall establish an Iowa business resource center program for purposes of locating Iowa business resource centers in the state. The department 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 department and the other entity.

Sec. 9. NEW SECTION. 15E.231 ECONOMIC DEVELOPMENT REGIONS.

1. In order for an economic development region to receive moneys from the grow Iowa values fund created in section 15G.108, an economic development region's regional development plan must be approved by the department. 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:

- a. Regional marketing strategies.
- b. Development of the information solutions sector.
- c. Development of the advanced manufacturing sector.

d. Development of the life sciences and biotechnology sector.

e. Development of the insurance or financial services sector.

f. Physical infrastructure including, but not limited to, horizontal infrastructure, water and sewer infrastructure, and telecommunications infrastructure.

g. Entrepreneurship.

2. An economic development region may create an economic development region revolving fund as provided in section 15E.232.

Sec. 10. NEW SECTION. 15E.232 ECONOMIC DEVELOPMENT REGION REVOLVING FUNDS -- TAX CREDITS.

1. An economic development region may create an economic development region revolving fund.

2. a. A nongovernmental entity making a contribution to an economic development region revolving fund, except those described in paragraph "b", may claim a tax credit equal to twenty percent of the amount contributed to the revolving fund. The tax credit shall be allowed against taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24. An individual may claim under this subsection the tax credit 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. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following ten 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 redeems the tax credit. A tax credit under this section is not transferable.

b. Subject to the provisions of paragraph "c", an organization exempt from federal income tax pursuant to section 501(c) of the Internal Revenue Code making a contribution to an economic development region revolving fund, shall be paid from the general fund of the state an amount equal to twenty percent of such contributed amount within thirty days after the end of the fiscal year during which the contribution was made.

c. The total amount of tax credits and payments to contributors, referred to as the credit amount, authorized during a fiscal year shall not exceed two million dollars plus any unused credit amount carried over from previous years. Any credit amount which remains unused for a fiscal year may be carried forward to the succeeding fiscal year. The maximum credit amount that may be authorized in a fiscal year for contributions made to a specific economic development region revolving fund is equal to two million dollars plus any unused credit amount carried over from previous years divided by the number of economic development region revolving funds existing in the state.

d. The department of economic development shall administer the authorization of tax credits under this section and payments to contributors described in paragraph "b" and shall, in cooperation with the department of revenue, adopt rules pursuant to chapter 17A necessary for the administration of this section.

3. An economic development region may apply for financial assistance from the grow Iowa values fund 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 the grow Iowa values fund.

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.

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

5. An economic development region may apply for financial assistance from the grow Iowa values fund 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 the grow Iowa values fund 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 the grow Iowa values fund.

6. An economic development region may apply for financial assistance from the grow Iowa values fund 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 the grow Iowa values fund.

7. a. An economic development region may apply for financial assistance from the grow Iowa values fund 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 the grow Iowa values fund.

8. An economic development region may apply for financial assistance from the grow Iowa values fund 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.

9. Financial assistance under subsections 3, 5, 6, 7, and 8, 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.

Sec. 11. NEW SECTION. 15E.233 ECONOMIC ENTERPRISE AREAS.

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

2. a. An approved economic enterprise area may apply to the department for financial assistance from the grow Iowa values fund 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 the grow Iowa values fund.

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.

Sec. 12. NEW SECTION. 15E.351 BUSINESS ACCELERATORS.

1. The department 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, 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 department shall use moneys appropriated to the department from the grow Iowa values fund pursuant to section 15G.111, subsection 1, if enacted, subject to the approval of the economic development board, to provide financial assistance under this section.

2. In determining whether a business accelerator qualifies for financial assistance, the department 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 department of economic development.

3. In determining whether a business accelerator qualifies for financial assistance, the department 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 disciplines in all aspects of business experience.

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.

Sec. 13. NEW SECTION. 422.11K ECONOMIC DEVELOPMENT REGION REVOLVING FUND TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

Sec. 14. Section 422.33, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 17. The taxes imposed under this division shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

Sec. 15. Section 422.60, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The taxes imposed under this division shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

Sec. 16. NEW SECTION. 432.12F ECONOMIC DEVELOPMENT REGION REVOLVING FUND CONTRIBUTION TAX CREDITS.

The tax imposed under this chapter shall be reduced by an economic development region tax credit authorized pursuant to section 15E.232.

Sec. 17. Section 533.24, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The moneys and credits tax imposed under this section shall be reduced by an economic development region revolving fund contribution tax credit authorized pursuant to section 15E.232.

Sec. 18. BUSINESS SUCCESSION -- SMALL BUSINESS DEVELOPMENT CENTERS. As the loss of a community's small businesses is a major concern for communities around the state, small business development centers shall design a plan which includes all of the following:

1. The pursuit of public and private partnerships with family business consultants, experts in the area of employee stock ownership plans, attorneys, certified public accountants, the department of economic development, and other service providers to assist communities with issues related to business succession.

2. The development of a comprehensive internet website with resources related to business succession including a listing of family business consultants and service providers by area of expertise, appropriate articles, links to related resources, and a listing of businesses for sale. The internet website should also be designed to promote the state and to encourage former Iowa residents and others to locate in Iowa.

3. Basic training on business succession issues for all small business development center directors and staff counselors.

4. Courses on business succession issues available in person in communities and on the internet.

5. Small business development centers in the state shall develop and administer programs to assist small businesses to plan for the transfer of ownership of the business, including the transfer of all or a part of the ownership of a business

to an employee stock ownership plan.

DIVISION V

CULTURAL AND ENTERTAINMENT DISTRICTS

Sec. 19. NEW SECTION. 303.3B CULTURAL AND ENTERTAINMENT DISTRICTS.

1. The department of cultural affairs shall establish and administer a cultural and entertainment district certification program. The program shall encourage the growth of communities through the development of areas within a city or county for public and private uses related to cultural and entertainment purposes.

2. A city or county may create and designate a cultural and entertainment district subject to certification by the department of cultural affairs, in consultation with the department of economic development. A cultural and entertainment district is encouraged to include a unique form of transportation within the district and for transportation between the district and recreational trails. A cultural and entertainment district certification shall remain in effect for ten years following the date of certification. Two or more cities or counties may apply jointly for certification of a district that extends across a common boundary. Through the adoption of administrative rules, the department of cultural affairs shall develop a certification application for use in the certification process. The provisions of this subsection relating to the adoption of administrative rules shall be construed narrowly.

3. The department of cultural affairs shall encourage development projects and activities located in certified cultural and entertainment districts through incentives under cultural grant programs pursuant to section 303.3, chapter 303A, and any other grant programs.

DIVISION VI

HISTORIC PRESERVATION AND CULTURAL
AND ENTERTAINMENT DISTRICT TAX CREDITS

Sec. 20. Section 404A.1, subsection 1, Code 2005, is amended to read as follows:

1. A property-rehabilitation historic preservation and cultural and entertainment district tax credit, subject to the availability of the credit, is granted against the tax imposed under chapter 422, division II, III, or V, or chapter 432, for the rehabilitation of eligible property located in this state

as provided in this chapter. Tax credits in excess of tax liabilities shall be refunded as provided in section 404A.4, subsection 3.

Sec. 21. Section 404A.1, subsection 2, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Eligible property for which a taxpayer may receive the property-rehabilitation historic preservation and cultural and entertainment district tax credit computed under this chapter includes all of the following:

Sec. 22. Section 404A.3, subsection 2, unnumbered paragraph 2, Code 2005, is amended to read as follows:

The selection standards shall provide that a person who qualifies for the rehabilitation tax credit under section 47 of the Internal Revenue Code shall automatically qualify for the state property-rehabilitation historic preservation and cultural and entertainment district tax credit under this chapter.

Sec. 23. Section 404A.4, subsection 2, Code 2005, is amended to read as follows:

2. After verifying the eligibility for the tax credit, the state historic preservation office, in consultation with the department of economic development, shall issue a property rehabilitation historic preservation and cultural and entertainment district tax credit certificate to be attached to the person's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of credit, other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

Sec. 24. Section 404A.4, subsection 3, Code 2005, is amended to read as follows:

3. A person receiving a property-rehabilitation historic preservation and cultural and entertainment district tax credit under this chapter which is in excess of the person's tax liability for the tax year is entitled to a refund of the excess at a discounted value. The discounted value of the tax credit refund, as calculated by the department of economic development, in consultation with the department of revenue, shall be determined based on the discounted value of the tax credit five years after the tax year of the project completion at an interest rate equivalent to the prime rate plus two

percent. The refunded tax credit shall not exceed seventy-five percent of the allowable tax credit.

Sec. 25. Section 404A.4, subsection 4, Code 2005, is amended to read as follows:

4. The total amount of tax credits that may be approved for a fiscal year under this chapter shall not exceed two million four hundred thousand dollars. For the fiscal years period beginning July 1, 2005, and July 1, 2006 and ending June 30, 2015, an additional five-hundred-thousand four million dollars of tax credits may be approved each fiscal year for purposes of projects located in cultural and entertainment districts certified pursuant to section 303.3B. Any of the additional tax credits allocated for projects located in certified cultural and entertainment districts that are not approved during a fiscal year may-be-carried-over-to the-succeeding-fiscal-year shall be applied to reserved tax credits issued in accordance with section 404A.3 in order of original reservation. The department of cultural affairs shall establish by rule the procedures for the application, review, selection, and awarding of certifications of completion. The departments of economic development, cultural affairs, and revenue shall each adopt rules to jointly administer this subsection and shall provide by rule for the method to be used to determine for which fiscal year the tax credits are available. With the exception of tax credits issued pursuant to contracts entered into prior to July 1, 2005, tax credits shall not be reserved for more than five years.

Sec. 26. Section 404A.5, Code 2005, is amended to read as follows:

404A.5 ECONOMIC IMPACT -- RECOMMENDATIONS.

The department of cultural affairs, in consultation with the department of economic development, shall be responsible for keeping the general assembly and the legislative services agency informed on the overall economic impact to the state of the rehabilitation of eligible properties. An annual report shall be filed which shall include, but is not limited to, data on the number and potential value of rehabilitation projects begun during the latest twelve-month period, the total property-rehabilitation historic preservation and cultural and entertainment district tax credits originally granted during that period, the potential reduction in state

tax revenues as a result of all tax credits still unused and eligible for refund, and the potential increase in local property tax revenues as a result of the rehabilitated projects. The department, to the extent it is able, shall provide recommendations on whether a limit on tax credits should be established, the need for a broader or more restrictive definition of eligible property, and other adjustments to the tax credits under this chapter.

DIVISION VII
COMMERCIALIZATION

Sec. 27. NEW SECTION. 15.115 TECHNOLOGY
COMMERCIALIZATION SPECIALIST.

The department shall ensure that businesses in the state are well informed about the technology patents, licenses, and options available to them from colleges and universities in the state and to ensure the department's business development and marketing efforts are conducted in a way that maximizes the advantage to the state of research and technology commercialization efforts at colleges and universities in the state. The department shall establish a technology commercialization specialist position which shall be responsible for the obligations imposed by this section and for performance of all of the following activities:

1. Establishing and maintaining communication with personnel in charge of intellectual property management and technology at colleges and universities in the state.

2. Meeting at least quarterly with personnel in charge of intellectual property management and technology commercialization regarding new technology disclosures and technology patents, licenses, or options available to Iowa businesses at colleges and universities in the state.

3. Being knowledgeable regarding intellectual property, patent, license, and option policies of colleges and universities in the state as well as applicable federal law.

4. Establishing and maintaining an internet website to link other internet websites which provide electronic access to information regarding available patents, licenses, or options for technology at colleges and universities in the state.

5. Establishing and maintaining communications with business and development organizations in the state regarding available technology patents, licenses, and options.

6. Cooperating with colleges and universities in the state in establishing technology fairs or other public events designed to make businesses in the state aware of available technology patents, licenses, or options available to businesses in the state.

Sec. 28. NEW SECTION. 15.115A TECHNOLOGY COMMERCIALIZATION COMMITTEE.

To evaluate and approve funding for projects and programs under section 15G.111, subsection 2, if enacted, the economic development board shall create a technology commercialization committee composed of members with expertise in the areas of biosciences, engineering, manufacturing, pharmaceuticals, materials, information solutions, software, and energy. At least one member of the technology commercialization committee shall be a member of the economic development board. An organization designated by the department, composed of members from both the public and private sectors and composed of subunits or subcommittees in the areas of already identified bioscience platforms, education and workforce development, commercialization, communication, policy and governance, and finance, shall provide funding recommendations to the technology commercialization committee.

Sec. 29. NEW SECTION. 15.116 CHIEF TECHNOLOGY OFFICER.

The governor shall appoint a chief technology officer for the state. The chief technology officer shall serve a four-year term and shall have national or international stature. The chief technology officer shall coordinate the activities of the technology commercialization specialist employed pursuant to section 15.115. The chief technology officer shall serve as a spokesperson for the department for purposes of promoting to private sector businesses the technology commercialization efforts of the department and the research and technology capabilities of institutions of higher learning in the state.

Sec. 30. Section 262B.1, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

262B.1 TITLE.

This chapter shall be known and may be cited as the "Commercialization of Research for Iowa Act".

Sec. 31. Section 262B.2, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

262B.2 LEGISLATIVE INTENT.

It is the intent of the general assembly that the three universities under the control of the state board of regents have as part of their missions the use of their universities' expertise to expand and stimulate economic growth across the state. This activity may be accomplished through a wide variety of partnerships, public and private joint ventures, and cooperative endeavors, primarily, but not exclusively, in the area of high technology, and may result in investments by the private sector for commercialization of the technology and job creation. It is imperative that whenever possible, the investments and job creation be in Iowa but need not be in the proximity of the universities. The purpose of the investments and job creation shall be to expand and stimulate Iowa's economy, increase the wealth of Iowans, and increase the population of Iowa, which may be accomplished through research conducted within the state that will competitively position Iowa on an economic basis with other states and create high-wage, high-growth employers and jobs. Accredited private universities located in the state are encouraged to incorporate the intent of this section into the mission of their universities.

Sec. 32. Section 262B.3, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

262B.3 DUTIES AND RESPONSIBILITIES.

1. The state board of regents, as part of its mission and strategic plan, shall establish mechanisms for the purpose of carrying out the intent of this chapter. In addition to other board initiatives, the board shall work with the department of economic development, other state agencies, and the private sector to facilitate the commercialization of research.

2. The state board of regents, in cooperation with the department of economic development, shall implement this chapter through any of the following activities:

a. Developing strategies to market and disseminate information on university research for commercialization in Iowa.

b. Evaluating university research for commercialization potential, where relevant.

c. Developing a plan to improve private sector access to the university licenses and patent information and the transfer of technology from the university to the private sector.

d. Identifying research and technical assistance needs of existing Iowa businesses and start-up companies and recommending ways in which the universities can meet these needs.

e. Linking research and instruction activities to economic development.

f. Reviewing and monitoring activities related to technology transfer.

g. Coordinating activities to facilitate a focus on research in the state's targeted industry clusters.

h. Surveying similar activities in other states and at other universities.

i. Establishing a single point of contact to facilitate commercialization of research.

j. Sustaining faculty and staff resources needed to implement commercialization.

k. Implementing programs to provide public recognition of university faculty and staff who demonstrate success in technology transfer and commercialization.

l. Implementing rural entrepreneurial and regional development assistance programs.

m. Providing market research ranging from early stage feasibility to extensive market research.

n. Creating real or virtual research parks that may or may not be located near universities, but with the goal of providing economic stimulus to the entire state.

o. Capacity building in key biosciences platform areas.

p. Encouraging biosciences entrepreneurship by faculty.

q. Providing matching grants for joint biosciences projects involving public and private entities.

r. Encouraging biosciences entrepreneurship by faculty using faculty research and entrepreneurship grants.

s. Pursuing bioeconomy initiatives in key platform areas as recommended by a consultant report on bioeconomy issues contracted for by the department of economic development.

3. Each January 15, the state board of regents shall submit a written report to the general assembly detailing the patents and licenses held by each institution of higher learning under the control of the state board of regents and by nonprofit foundations acting solely for the support of institutions governed by the state board of regents.

Sec. 33. Sections 262B.4, 262B.5, and 262B.12, Code 2005, are repealed.

Sec. 34. STUDIES.

1. The state board of regents shall conduct a study to determine the feasibility of establishing a graduate school in western Iowa in cooperation with other public or private institutions of higher learning. By December 15, 2005, the board shall submit a report to the general assembly and the governor regarding the findings and recommendations of the study.

2. The state board of regents shall conduct a study relating to cost-effective methods of recognizing the efforts of faculty to achieve commercialization. By December 15, 2005, the board shall submit a report to the general assembly and the governor regarding the findings and recommendations of the study.

DIVISION VIII

WORKFORCE TRAINING AND ECONOMIC DEVELOPMENT FUNDS

Sec. 35. Section 260C.18A, subsection 2, paragraph b, Code 2005, is amended to read as follows:

b. Projects in which an agreement between a community college and a business meet all the requirements of the Iowa jobs training Act under chapter 260F. However, projects funded by moneys provided by a local workforce training and economic development fund of a community college are not subject to the maximum advance or award limitations contained in section 260F.6, subsection 2, or the allocation limitations contained in section 260F.8, subsection 1.

Sec. 36. Section 260C.18A, subsection 2, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Training and retraining programs for targeted industries as authorized in section 15.343, subsection 2, paragraph "a".

Sec. 37. Section 260C.18A, subsection 5, Code 2005, is amended by striking the subsection.

Sec. 38. OPERATIONAL EXPENSES. Moneys that are appropriated to the department of economic development pursuant to section 15G.111, if enacted, for deposit in workforce training and economic development funds of community colleges may be used by community colleges for operational expenses associated with vocational technical training.

DIVISION IX

LOAN AND CREDIT GUARANTEE PROGRAM

Sec. 39. Section 15E.224, subsections 1, 5, and 7, Code 2005, are amended to read as follows:

1. The department shall establish and administer a loan and credit guarantee program. The department, pursuant to agreements with financial institutions, shall provide loan and credit guarantees, or other forms of credit guarantees for qualified businesses and targeted industry businesses for eligible project costs. The department may invest up to ten percent of the assets of the loan and credit guarantee fund, or five hundred thousand dollars, whichever is greater, to provide loan and credit guarantees or other forms of credit guarantees for eligible project costs to microenterprises located in a municipality with a population under fifty thousand that is not contiguous to a municipality with a population of fifty thousand or more. For purposes of this division, "microenterprise" means a business providing services with five or fewer full-time equivalent employee positions. A loan or credit guarantee provided under the program may stand alone or may be used in conjunction with or to enhance other loans or credit guarantees offered by private, state, or federal entities. The department may purchase insurance to cover defaulted loans meeting the requirements of the program. However, the department shall not in any manner directly or indirectly pledge the credit of the state. Eligible project costs include expenditures for productive equipment and machinery, working capital for operations and export transactions, research and development, marketing, and such other costs as the department may so designate.

5. The department shall adopt a loan or credit guarantee application procedure for a financial institution on behalf of a qualified business, microenterprise, or targeted industry business.

7. The department may adopt loan and credit guarantee application procedures that allow a qualified business, microenterprise, or targeted industry business to apply directly to the department for a preliminary guarantee commitment. A preliminary guarantee commitment may be issued by the department subject to the qualified business, microenterprise, or targeted industry business securing a commitment for financing from a financial institution. The application procedures shall specify the process by which a

financial institution may obtain a final loan and credit guarantee.

Sec. 40. Section 15E.225, subsection 3, Code 2005, is amended to read as follows:

3. For a preliminary guarantee commitment, the department may charge a qualified business, microenterprise, or targeted industry business a preliminary guarantee commitment fee. The application fee shall be in addition to any other fees charged by the department under this section and shall not exceed one thousand dollars for an application.

DIVISION X

ECONOMIC DEVELOPMENT TAX INCENTIVES

Sec. 41. Section 15.113, Code 2005, is amended to read as follows:

15.113 ECONOMIC DEVELOPMENT ASSISTANCE -- REPORT.

In order for the general assembly to have accurate and complete information regarding expenditures for economic development and job training incentives and to respond to the job training needs of Iowa workers, the department shall provide to the legislative services agency by January 15 of each year data on all assistance or benefits provided under the community economic betterment program, the ~~new-jobs-and-income-program~~, high quality job creation program, and the Iowa industrial new jobs training Act during the previous calendar year. The department shall meet with the legislative services agency prior to submitting the data to assure that its form and specificity are sufficient to provide accurate and complete information to the general assembly. The department shall also contact other state agencies providing financial assistance to Iowa businesses and, to the extent practical, coordinate the submission of the data to the legislative services agency.

Sec. 42. Section 15.326, Code 2005, is amended to read as follows:

15.326 SHORT TITLE.

This part shall be known and may be cited as the "~~New-Jobs and-Income~~ High Quality Job Creation Act".

Sec. 43. Section 15.327, Code 2005, is amended to read as follows:

15.327 DEFINITIONS.

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

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

2. "Contractor or subcontractor" means a person who contracts with the eligible business ~~or-a-supporting-business~~ or subcontracts with a contractor for the provision of property, materials, or services for the construction or equipping of a facility~~,-located-within-the-economic development-area,~~ of the eligible business ~~or-a-supporting business.~~

3. "Department" means the Iowa department of economic development.

~~4. "Director" means the director of the department or the director's designee.~~

~~5. "Economic development area" means a site or sites designated by the department of economic development for the purpose of attracting an eligible business and supporting businesses to locate facilities within the state.~~

6. 4. "Eligible business" means a business meeting the conditions of section 15.329.

7. 5. "Program" means the ~~new-jobs-and-income~~ high quality job creation program.

8. 6. "Project completion" means the first date upon which the average annualized production of finished product for the preceding ninety-day period at the manufacturing facility operated by the eligible business ~~within the economic development area~~ is at least fifty percent of the initial design capacity of the facility. The eligible business shall inform the department of revenue in writing within two weeks of project completion.

~~9. "Supporting business" means a business under contract with the eligible business to provide property, materials, or services which are a necessary component of the operation of the manufacturing facility. To qualify as a supporting business, the business shall have a permanent facility or operations located within the economic development area and the revenue from fulfilling the contract with the eligible business shall constitute at least seventy-five percent of the revenue generated by the business from all activities undertaken from the facility within the economic development area.~~

7. "Qualifying investment" means a capital investment in real property including the purchase price of land and

existing buildings and structures, site preparation, improvements to the real property, building construction, and long-term lease costs. "Qualifying investment" also means a capital investment in depreciable assets.

Sec. 44. Section 15.329, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

15.329 ELIGIBLE BUSINESS.

1. To be eligible to receive incentives under this part, a business shall meet all of the following requirements:

a. If the qualifying investment is ten million dollars or more, the community has approved by ordinance or resolution the start-up, location, or expansion of the business for the purpose of receiving the benefits of this part.

b. The business has not closed or substantially reduced its operation in one area of the state and relocated substantially the same operation in the community. This subsection does not prohibit a business from expanding its operation in the community if existing operations of a similar nature in the state are not closed or substantially reduced.

c. The business is not a retail or service business.

2. In addition to the requirements of subsection 1, a business shall do at least four of the following in order to be eligible for incentives under the program:

a. Offer a pension or profit sharing plan to full-time employees.

b. Produce or manufacture high value-added goods or services or be engaged in one of the following industries:

(1) Value-added agricultural products.

(2) Insurance and financial services.

(3) Plastics.

(4) Metals.

(5) Printing paper or packaging products.

(6) Drugs and pharmaceuticals.

(7) Software development.

(8) Instruments and measuring devices and medical instruments.

(9) Recycling and waste management.

(10) Telecommunications.

(11) Trucking and warehousing.

Retail and service businesses shall not be eligible for benefits under this part.

c. Provide and pay at least eighty percent of the cost of a standard medical and dental insurance plan for all full-time employees working at the facility in which the new investment occurred.

d. Make child care services available to its employees.

e. Invest annually no less than one percent of pretax profits, from the facility located to Iowa or expanded under the program, in research and development in Iowa.

f. Invest annually no less than one percent of pretax profits, from the facility located to Iowa or expanded under the program, in worker training and skills enhancement.

g. Have an active productivity and safety improvement program involving management and worker participation and cooperation with benchmarks for gauging compliance.

h. Occupy an existing facility, at least one of the buildings of which shall be vacant and shall contain at least twenty thousand square feet.

3. Any business located in a quality jobs enterprise zone is ineligible to receive the economic development incentives under the program.

4. If the department finds that a 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 business shall not qualify for economic development assistance under this part, unless the department 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 the business is disqualified for economic development assistance under this part, the department shall be exempt from chapter 17A.

5. The department shall also consider a variety of factors, including but not limited to the following in determining the eligibility of a business to participate in the program:

a. The quality of the jobs to be created. In rating the quality of the jobs, the department shall place greater emphasis on those jobs that have a higher wage scale, have a lower turnover rate, are full-time or career-type positions, provide comprehensive health benefits, or have other related

factors which could be considered to be higher in quality, than to other jobs. Businesses that have wage scales substantially below that of existing Iowa businesses in that area should be rated as providing the lowest quality of jobs and should therefore be given the lowest ranking for providing such assistance.

b. The impact of the proposed project on other businesses in competition with the business being considered for assistance. The department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for assistance. The department 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 as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created.

c. The impact to the state of the proposed project. In measuring the economic impact, the department shall place greater emphasis on projects which have greater consistency with the state strategic plan than other projects. Greater consistency may include any or all of the following:

(1) A business with a greater percentage of sales out-of-state or of import substitution.

(2) A business with a higher proportion of in-state suppliers.

(3) A project which would provide greater diversification of the state economy.

(4) A business with fewer in-state competitors.

(5) A potential for future job growth.

(6) A project which is not a retail operation.

d. If a business has, within three years of application for assistance, acquired or merged with an Iowa corporation or company and the business has made a good faith effort to hire the workers of the acquired or merged company.

e. Whether a business provides for a preference for hiring residents of the state, except for out-of-state employees offered a transfer to Iowa.

f. Whether all known required environmental permits have been issued and regulations met before moneys are released.

6. The department may waive any of the requirements of this section for good cause shown.

7. An application to receive incentives under this part may be submitted to the department at any time within one year from the time the job for which benefits are sought commences.

Sec. 45. Section 15.330, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

15.330 AGREEMENT.

A business shall enter into an agreement with the department specifying the requirements that must be met to confirm eligibility pursuant to this part. The department shall consult with the community during negotiations relating to the agreement. The agreement shall contain, at a minimum, the following provisions:

1. A business that is approved to receive incentives shall, for the length of the agreement, certify annually to the department the compliance of the business with the requirements of the agreement. If the business receives a local property tax exemption, the business shall also certify annually to the community the compliance of the business with the requirements of the agreement.

2. The repayment of incentives by the business if the business does not meet any of the requirements of this part or the resulting agreement.

3. If a business that is approved to receive incentives under this part experiences a layoff within the state or closes any of its facilities within the state, the department shall have the discretion to reduce or eliminate some or all of the incentives. If a business has received incentives under this part and experiences a layoff within the state or closes any of its facilities within the state, the business may be subject to repayment of all or a portion of the incentives that it has received.

4. A business creating fifteen or fewer new high quality jobs shall have up to three years to complete a project and shall be required to maintain the jobs for an additional two years. A business creating sixteen or more new high quality jobs shall have up to five years to complete a project and shall be required to maintain the jobs for an additional two years.

Sec. 46. Section 15.331A, Code 2005, is amended to read as follows:

15.331A SALES AND USE TAX REFUND ---~~CONTRACTOR-OR~~
~~SUBCONTRACTOR.~~

The eligible business ~~or-a-supporting-business~~ shall be entitled to a refund of the sales and use taxes paid under chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility ~~within-the-economic-development-area~~ of the eligible business ~~or-a-supporting-business~~. Taxes attributable to intangible property and furniture and furnishings shall not be refunded. However, an eligible business shall be entitled to a refund for taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center subject to section 15.331C.

To receive the refund a claim shall be filed by the eligible business ~~or-a-supporting-business~~ with the department of revenue as follows:

1. The contractor or subcontractor shall state under oath, on forms provided by the department, the amount of the sales of goods, wares, or merchandise or services rendered, furnished, or performed including water, sewer, gas, and electric utility services ~~for-use-in-the-economic-development area~~ upon which sales or use tax has been paid prior to the project completion, and shall file the forms with the eligible business ~~or-supporting-business~~ before final settlement is made.

2. The eligible business ~~or-a-supporting-business~~ shall, not more than one year after project completion, make application to the department for any refund of the amount of the sales and use taxes paid pursuant to chapter 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be made in the manner and upon forms to be provided by the department, and the department shall audit the claim and, if approved, issue a warrant to the eligible business ~~or-supporting-business~~ in the amount of the sales or use tax which has been paid to the state of Iowa under a contract. A claim filed by the eligible business ~~or-a-supporting-business~~ in accordance with this section shall not be denied by reason of a limitation provision set forth in chapter 421 or 423.

3. A contractor or subcontractor who willfully makes a false report of tax paid under the provisions of this section is guilty of a simple misdemeanor and in addition is liable for the payment of the tax and any applicable penalty and interest.

Sec. 47. Section 15.331C, Code 2005, is amended to read as follows:

15.331C CORPORATE TAX CREDIT FOR CERTAIN SALES TAXES PAID BY THIRD-PARTY DEVELOPER.

1. An eligible business ~~or-a-supporting-business~~ may claim a corporate tax credit in an amount equal to the taxes paid by a third-party developer under chapters 422 and 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility ~~within-the-economic development-area~~ of the eligible business ~~or-supporting business~~. Taxes attributable to intangible property and furniture and furnishings shall not be included, but taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center shall be included. 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. An eligible business may elect to receive a refund of all or a portion of an unused tax credit.

2. A third-party developer shall state under oath, on forms provided by the department of economic development, the amount of taxes paid as described in subsection 1 and shall submit such forms to the department. The taxes paid shall be itemized to allow identification of the taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. After receiving the form from the third-party developer, the department shall issue a tax credit certificate to the eligible business ~~or-supporting business~~ equal to the taxes paid by a third-party developer under chapters 422 and 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of

a facility. The department shall also issue a tax credit certificate to the eligible business ~~or-supporting-business~~ equal to the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center. The aggregate combined total amount of tax refunds under section 15.331A for taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center and of tax credit certificates issued by the department for the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center shall not exceed five hundred thousand dollars in a fiscal year. If an applicant for a tax credit certificate does not receive a certificate for the taxes paid and attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center, the application shall be considered in succeeding fiscal years. The eligible business ~~or-supporting business~~ shall not claim a tax credit under this section unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's tax return for the tax year for which the tax credit is claimed. A tax credit certificate shall contain the eligible business's ~~or supporting-business's~~ name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue.

Sec. 48. Section 15.333, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

15.333 INVESTMENT TAX CREDIT.

1. An eligible business may claim a tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business under the program. The tax credit shall be amortized equally over five calendar years. The tax credit shall be allowed against taxes imposed under chapter 422, division II, III, or V, and against the moneys and credits tax imposed in section 533.24. If the business is a partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the

partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust. The percentage shall be determined as provided in section 15.335A. Any tax 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 first.

Subject to prior approval by the department of economic development, in consultation with the department of revenue, an eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes may elect to receive a refund of all or a portion of an unused tax credit. For purposes of this subsection, such an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, and whose project primarily involves the production of ethanol. The refund may be applied against a tax liability imposed under chapter 422, division II, III, or V, and against the moneys and credits tax imposed in section 533.24. If the business is a partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust.

2. For purposes of this subsection, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, the purchase price of real property and any buildings and structures located on the real property, and the cost of improvements made to real property which is used in the operation of the eligible business. "New investment directly related to new jobs created by the

location or expansion of an eligible business under the program" also means the annual base rent paid to a third-party developer by an eligible business for a period not to exceed ten years, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the eligible business. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. If, however, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which tax credit was claimed under this section, the tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

a. One hundred percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within one full year after being placed in service.

b. Eighty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within two full years after being placed in service.

c. Sixty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within three full years after being placed in service.

d. Forty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within four full years after being placed in service.

e. Twenty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within five full years after being placed in service.

3. a. An eligible business whose project primarily involves the production of value-added agricultural products or uses biotechnology-related processes, which elects to receive a refund of all or a portion of an unused tax credit, shall apply to the department of economic development for tax credit certificates. Such an eligible business shall not claim a tax credit refund under this subsection unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's tax return for the tax year for which the tax credit refund is claimed. For

purposes of this subsection, an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, and whose project primarily involves the production of ethanol. For purposes of this subsection, an eligible business also includes a cooperative described in section 521 of the Internal Revenue Code which is required to file an Iowa corporate income tax return and whose project primarily involves the production of ethanol. Such cooperative may elect to transfer all or a portion of its tax credit to its members. The amount of tax credit transferred and claimed by a member shall be based upon the pro rata share of the member's earnings of the cooperative.

b. A tax credit certificate issued under this subsection shall not be valid until the tax year following the date of the capital investment project completion. A tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of the tax credit, and other information required by the department of revenue. The department of economic development shall not issue tax credit certificates under this subsection which total more than four million dollars during a fiscal year. If the department receives and approves applications for tax credit certificates under this subsection in excess of four million dollars, the applicants shall receive certificates for a prorated amount. The tax credit certificates shall not be transferred except as provided in this subsection for a cooperative described in section 521 of the Internal Revenue Code which is required to file an Iowa corporate income tax return and whose project primarily involves the production of ethanol. For a cooperative described in section 521 of the Internal Revenue Code, the department of economic development shall require that the cooperative submit a list of its members and the share of each member's interest in the cooperative. The department shall issue a tax credit certificate to each member contained on the submitted list.

Sec. 49. Section 15.333A, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

15.333A INSURANCE PREMIUM TAX CREDITS.

1. An eligible business may claim an insurance premium tax credit equal to a percentage of the new investment directly related to new jobs created by the location or expansion of an eligible business under the program. The tax credit shall be amortized equally over a five-year period. The tax credit shall be allowed against taxes imposed in chapter 432. A tax 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 first. The percentage shall be determined as provided in section 15.335A.

2. For purposes of this section, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, the purchase price of real property and any buildings and structures located on the real property, and the cost of improvements made to real property which is used in the operation of the eligible business. "New investment directly related to new jobs created by the location or expansion of an eligible business under the program" also means the annual base rent paid to a third-party developer by an eligible business for a period not to exceed ten years, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the eligible business. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of five years. If, however, within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which tax credit was claimed under this section, the tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

a. One hundred percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within one full year after being placed in service.

b. Eighty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within two full years after being placed in service.

c. Sixty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within three full years after being placed in service.

d. Forty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within four full years after being placed in service.

e. Twenty percent of the tax credit claimed under this section if the property ceases to be eligible for the tax credit within five full years after being placed in service.

Sec. 50. NEW SECTION. 15.335A TAX INCENTIVES.

1. Tax incentives are available to eligible businesses as provided in this section. The incentives are based upon the number of new high quality jobs created and the amount of the qualifying investment made according to the following schedule:

a. The number of new high quality jobs created with an annual wage, including benefits, equal to or greater than one hundred thirty percent of the average county wage is one of the following:

(1) The number of jobs is zero and economic activity is furthered by the qualifying investment and the amount of the qualifying investment is one of the following:

(a) Less than one hundred thousand dollars, then the tax incentive is the investment tax credit of up to one percent.

(b) At least one hundred thousand dollars but less than five hundred thousand dollars, then the tax incentives are the investment tax credit of up to one percent and the sales tax refund.

(c) At least five hundred thousand dollars, then the tax incentives are the investment tax credit of up to one percent, the sales tax refund, and the additional research and development tax credit.

(2) The number of jobs is one but not more than five and the amount of the qualifying investment is one of the following:

(a) Less than one hundred thousand dollars, then the tax incentive is the investment tax credit of up to two percent.

(b) At least one hundred thousand dollars but less than five hundred thousand dollars, then the tax incentives are the

investment tax credit of up to two percent and the sales tax refund.

(c) At least five hundred thousand dollars, then the tax incentives are the investment tax credit of up to two percent, the sales tax refund, and the additional research and development tax credit.

(3) The number of jobs is six but not more than ten and the amount of the qualifying investment is one of the following:

(a) Less than one hundred thousand dollars, then the tax incentive is the investment tax credit of up to three percent.

(b) At least one hundred thousand dollars but less than five hundred thousand dollars, then the tax incentives are the investment tax credit of up to three percent and the sales tax refund.

(c) At least five hundred thousand dollars, then the tax incentives are the investment tax credit of up to three percent, the sales tax refund, and the additional research and development tax credit.

(4) The number of jobs is eleven but not more than fifteen and the amount of the qualifying investment is one of the following:

(a) Less than one hundred thousand dollars, then the tax incentive is the investment tax credit of up to four percent.

(b) At least one hundred thousand dollars but less than five hundred thousand dollars, then the tax incentives are the investment tax credit of up to four percent and the sales tax refund.

(c) At least five hundred thousand dollars, then the tax incentives are the investment tax credit of up to four percent, the sales tax refund, and the additional research and development tax credit.

(5) The number of jobs is sixteen or more and the amount of the qualifying investment is one of the following:

(a) Less than one hundred thousand dollars, then the tax incentive is the investment tax credit of up to five percent.

(b) At least one hundred thousand dollars but less than five hundred thousand dollars, then the tax incentives are the investment tax credit of up to five percent and the sales tax refund.

(c) At least five hundred thousand dollars, then the tax incentives are the investment tax credit of up to five

percent, the sales tax refund, and the additional research and development tax credit.

b. In lieu of paragraph "a", the number of new high quality jobs created with an annual wage, including benefits, equal to or greater than one hundred sixty percent of the average county wage is one of the following:

(1) The number of jobs is twenty-one but not more than thirty and the amount of the qualifying investment is at least ten million dollars, then the tax incentives are the local property tax exemption, the investment tax credit of up to six percent, the sales tax refund, and the additional research and development tax credit.

(2) The number of jobs is thirty-one but not more than forty and the amount of the qualifying investment is at least ten million dollars, then the tax incentives are the local property tax exemption, the investment tax credit of up to seven percent, the sales tax refund, and the additional research and development tax credit.

(3) The number of jobs is forty-one but not more than fifty and the amount of the qualifying investment is at least ten million dollars, then the tax incentives are the local property tax exemption, the investment tax credit of up to eight percent, the sales tax refund, and the additional research and development tax credit.

(4) The number of jobs is fifty-one but not more than sixty and the amount of the qualifying investment is at least ten million dollars, then the tax incentives are the local property tax exemption, the investment tax credit of up to nine percent, the sales tax refund, and the additional research and development tax credit.

(5) The number of jobs is at least sixty-one and the amount of the qualifying investment is at least ten million dollars, then the tax incentives are the local property tax exemption, the investment tax credit of up to ten percent, the sales tax refund, and the additional research and development tax credit.

2. For purposes of this section:

a. "Additional research and development tax credit" means the research activities credit as provided under section 15.335.

b. "Average county wage" means the same as defined in section 15H.1.

c. "Benefits" means the same as defined in section 15H.1.

d. "Investment tax credit" means the investment tax credit or the insurance premium tax credit as provided under section 15.333 or 15.333A, respectively.

e. "Local property tax exemption" means the property tax exemption as provided under section 15.332.

f. "Sales tax refund" means the sales and use tax refund as provided under section 15.331A or the corporate tax credit for certain sales taxes paid by third-party developers as provided under section 15.331C.

3. A community may apply to the Iowa economic development board for a project-specific waiver from the average county wage calculations provided in subsection 1 in order for an eligible business to receive tax incentives. The board may grant a project-specific waiver from the average county wage calculations in subsection 1 for the remainder of the calendar year, based on average county or regional wage calculations brought forth by the applicant county including, but not limited to, any of the following:

a. The average county wage calculated without wage data from the business in the county employing the greatest number of full-time employees.

b. The average regional wage calculated without wage data from up to two adjacent counties.

c. The average county wage calculated without wage data from the largest city in the county.

d. A qualifying wage guideline for a specific project based upon unusual economic circumstances present in the city or county.

e. The annualized, average hourly wage paid by all businesses in the county located outside the largest city of the county.

f. The annualized, average hourly wage paid by all businesses other than the largest employer in the entire county.

4. Average wage calculations made under this section shall be calculated quarterly using wage data submitted to the department of workforce development during the previous four quarters.

5. Each calendar year, the department shall not approve more than three million six hundred thousand dollars worth of investment tax credits for projects with qualifying investments of less than one million dollars.

6. The department shall negotiate the amount of tax incentives provided to an applicant under the program in accordance with this section.

Sec. 51. Section 15.336, Code 2005, is amended to read as follows:

15.336 OTHER INCENTIVES.

An eligible business may receive other applicable federal, state, and local incentives and credits in addition to those provided in this part. However, a business which participates in the program under this part shall not receive any funds ~~from the community economic development account under the community economic betterment program~~ wage-benefits tax credits under chapter 15H.

Sec. 52. Section 15E.196, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. New jobs credit from withholding, as provided in section ~~15.333~~ 15E.197.

Sec. 53. Section 15E.196, subsections 3 and 6, Code 2005, are amended to read as follows:

3. Investment tax credit of up to ten percent, as provided in section 15.333.

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

Sec. 54. NEW SECTION. 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. The agreement shall provide for the following:

1. 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.

2. 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.

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

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 department of economic development pursuant to application as provided in section 15E.195.

Sec. 55. NEW SECTION. 15H.1 DEFINITIONS.

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

1. "Average county wage" means the annualized, average hourly wage based on wage information compiled by the department of workforce development.

2. "Benefits" means all of the following:

- a. Medical and dental insurance plans.
- b. Pension and profit sharing plans.
- c. Child care services.
- d. Life insurance coverage.
- e. Other benefits identified by rule of the department.

3. "Department" means the department of revenue.

4. a. "Qualified new job" means a job that meets all of the following:

(1) Is a new full-time job that has not existed in the business within the previous twelve months in the state.

(2) Is filled by a new employee for at least twelve months.

(3) Is filled by a resident of the state.

(4) Is not created as a result of a change in ownership.

b. "Qualified new job" does not include any of the following:

(1) A job previously filled by the same employee in the state.

(2) A job that was relocated from another location in the state.

(3) A job that is created as a result of a consolidation, merger, or restructuring of a business entity if the job does not represent a new job in the state.

5. "Retained qualified new job" means the continued employment for another twelve months of the same employee in a qualified new job.

Sec. 56. NEW SECTION. 15H.2 WAGE-BENEFITS TAX CREDIT.

1. a. Any nonretail, nonservice business may claim a tax credit equal to a percentage of the annual wages and benefits paid for a qualified new job created by the location or expansion of the business in the state. The tax credit shall be allowed against taxes imposed under chapter 422, division II, III, or V, and chapter 432 and against the moneys and credits tax imposed in section 533.24. The percentage shall be equal to the amount provided in subsection 2.

Any credit in excess of the tax liability shall be refunded. In lieu of claiming a refund, a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following taxable year.

b. 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.

2. The percentage of the annual wages and benefits paid for a qualified new job is determined as follows:

a. If the annual wage and benefits for the qualified new job equals less than one hundred thirty percent of the average county wage, zero percent.

b. If the annual wage and benefits for the qualified new job equals at least one hundred thirty percent but less than one hundred sixty percent of the average county wage, five percent.

c. If the annual wage and benefits for the qualified new job equals at least one hundred sixty percent of the average county wage, ten percent.

3. A qualified new job is entitled to the tax credit upon the end of the twelfth month of the job having been filled. Once a qualified new job is approved for a tax credit, tax

credits for the next four subsequent tax years may be approved if the job continues to be filled and application is made as provided in section 15H.3. The percentage determined under subsection 2 for the first tax year shall continue to apply to subsequent tax credits as the credits relate to that qualified new job.

Sec. 57. NEW SECTION. 15H.3 TAX CREDIT CERTIFICATION -- CREDIT LIMITATION.

1. In order for a wage-benefit tax credit to be claimed, the business shall submit an application to the department along with information on the qualified new job or retained qualified new job and any other information required. Applications for approval of the tax credit shall be on forms approved by the department. Within forty-five days of receipt of the application, the department shall either approve or disapprove the application. After the forty-five-day limit, the application is deemed approved.

2. Upon approval of the tax credit and subject to subsection 4, a tax credit certificate shall be issued by the department. A tax credit certificate shall identify the business claiming the tax credit under this chapter and the wage and benefit costs incurred during the previous twelve months.

3. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of the qualified new job, the amount of credit, and other information required by the department.

4. The total amount of tax credit certificates that may be issued for a fiscal year under this chapter shall not exceed ten million dollars. The department shall establish by rule the procedures for the application, review, selection, awarding of certificates, and the method to be used to determine for which fiscal year the tax credits are available. If the approved tax credits exceed the maximum amount for a fiscal year, tax credit certificates shall be issued on an earliest date applied basis.

5. a. A nonretail, nonservice business that has created a qualified new job for which a tax credit certificate under this chapter is issued is eligible to receive a tax credit certificate for each of the four subsequent tax years if the business retains the qualified new job during each of the twelve months ending in each of the tax years by applying for

the credit under this section. Preference in issuing these tax credit certificates shall be given to businesses applying for the credit for retained qualified new jobs.

b. A nonretail, nonservice business that created a qualified new job but failed to receive all or part of the tax credit because of the limitation in subsection 4 is eligible to reapply for the tax credit for the retained qualified new job.

6. a. A business whose application has been disapproved by the department may appeal the decision to the Iowa economic development board within thirty days of notice of disapproval. If the board subsequently approves the application, the business shall receive the tax credit certificates subject to the availability of the amount of credits that may be issued as provided in subsection 4.

b. A nonretail, nonservice business may apply to the Iowa economic development board for a waiver of any provision of this chapter as it relates to the requirements for qualifying for the wage-benefits tax credit. The Iowa economic development board shall establish by rule the conditions under which a waiver of such requirements will be granted. A waiver from average county wage calculations shall be applied for and considered by the board according to the procedures provided in section 15.335A.

Sec. 58. NEW SECTION. 15H.4 MONITORING OF JOB CREATION.

The department shall develop definitions for the terms "job creation" and "job retention" to measure and identify the number of permanent, full-time positions which businesses actually create and retain and which can be documented by comparison of the payroll reports during the twenty-four-month period before and after tax credits are earned.

Sec. 59. NEW SECTION. 15H.5 OTHER INCENTIVES.

A nonretail, nonservice business may receive other applicable federal, state, and local incentives and tax credits in addition to those provided in this chapter. However, a business which has received a tax credit under this chapter shall not receive tax incentives under the high quality job creation program in chapter 15, subchapter II, part 13 or moneys from the grow Iowa values fund.

Sec. 60. NEW SECTION. 422.11L WAGE-BENEFITS TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by

a wage-benefits tax credit authorized pursuant to section 15H.2.

Sec. 61. Section 422.16A, Code 2005, is amended to read as follows:

422.16A JOB TRAINING WITHHOLDING -- CERTIFICATION AND TRANSFER.

Upon the completion by a business of its repayment obligation for a training project funded under chapter 260E, including a job training project funded under section 15A.8 or repaid in whole or in part by the supplemental new jobs credit from withholding under section 15A.7 or section ~~15.331~~ 15E.197, the sponsoring community college shall report to the department of economic development the amount of withholding paid by the business to the community college during the final twelve months of withholding payments. The department of economic development shall notify the department of revenue of that amount. The department shall credit to the workforce development fund account established in section 15.342A twenty-five percent of that amount each quarter for a period of ten years. If the amount of withholding from the business or employer is insufficient, the department shall prorate the quarterly amount credited to the workforce development fund account. The maximum amount from all employers which shall be transferred to the workforce development fund account in any year is four million dollars.

Sec. 62. Section 422.33, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 18. The taxes imposed under this division shall be reduced by a wage-benefits tax credit authorized pursuant to section 15H.2.

Sec. 63. Section 422.60, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The taxes imposed under this division shall be reduced by a wage-benefits tax credit authorized pursuant to section 15H.2.

Sec. 64. Section 427B.17, subsection 5, unnumbered paragraph 2, Code 2005, is amended to read as follows:

Any electric power generating plant which operated during the preceding assessment year at a net capacity factor of more than twenty percent, shall not receive the benefits of this section or of ~~sections~~ section 15.332 ~~and 15.334~~. For purposes of this section, "electric power generating plant"

means any nameplate rated electric power generating plant, in which electric energy is produced from other forms of energy, including all taxable land, buildings, and equipment used in the production of such energy. "Net capacity factor" means net actual generation divided by the product of net maximum capacity times the number of hours the unit was in the active state during the assessment year. Upon commissioning, a unit is in the active state until it is decommissioned. "Net actual generation" means net electrical megawatt hours produced by the unit during the preceding assessment year. "Net maximum capacity" means the capacity the unit can sustain over a specified period when not restricted by ambient conditions or equipment deratings, minus the losses associated with station service or auxiliary loads.

Sec. 65. NEW SECTION. 432.12G WAGE-BENEFITS TAX CREDIT.

The taxes imposed under this chapter shall be reduced by a wage-benefits tax credit authorized pursuant to section 15H.2.

Sec. 66. Section 533.24, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The moneys and credits tax imposed under this section shall be reduced by a wage-benefits tax credit authorized pursuant to section 15H.2.

Sec. 67. Sections 15.331, 15.331B, 15.334, 15.334A, 15.337, and 15.381 through 15.387, Code 2005, are repealed.

Sec. 68. CONTRACT VALIDITY -- NEW JOBS AND INCOME PROGRAM -- NEW CAPITAL INVESTMENT PROGRAM. Any contract entered into for a project or activity approved by the department of economic development under the new jobs and income program and the new capital investment program remains valid. The elimination of the new jobs and income program and the new capital investment program under this Act shall not constitute grounds for rescission or modification of contracts entered into with the department under the programs.

Sec. 69. EFFECTIVE AND APPLICABILITY DATE. The provisions of this division of this Act relating to Code chapter 15H, being deemed of immediate importance, take effect upon enactment and apply to qualified new jobs created on or after the effective date of this division of this Act. This division of this Act applies to tax years ending on or after the effective date of this division of this Act.

Sec. 70. Section 15.335, subsection 1, unnumbered paragraph 1, Code 2005, is amended to read as follows:

An eligible business may claim a corporate tax credit for increasing research activities in this state during the period the eligible business is participating in the program. For purposes of this section, "research activities" includes the development and deployment of innovative renewable energy generation components manufactured or assembled in this state. For purposes of this section, "innovative renewable energy generation components" does not include a component with more than two hundred megawatts of installed effective nameplate capacity. The tax credits for innovative renewable energy generation components shall not exceed one million dollars.

DIVISION XII

ENDOW IOWA

Sec. 71. Section 15E.303, subsections 4 and 6, Code 2005, are amended to read as follows:

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

6. ~~Qualified~~ "Endow Iowa qualified community foundation" means a community foundation organized or operating in this state that ~~meets-or-exceeds~~ substantially complies with the national standards established by the national council on foundations as determined by the department in collaboration with the Iowa council of foundations.

Sec. 72. Section 15E.304, subsection 2, paragraphs c and d, Code 2005, are amended to read as follows:

c. Identify a an endow Iowa qualified community foundation to hold all funds. ~~A~~ 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.

Sec. 73. Section 15E.304, subsection 3, Code 2005, is amended to read as follows:

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.

Sec. 74. Section 15E.305, subsection 1, Code 2005, is amended to read as follows:

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 533.24 equal to twenty percent of a taxpayer's endowment gift to a 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 a an endow Iowa qualified community foundation for a permanent endowment fund established to benefit a charitable cause in this state. 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.

Sec. 75. Section 15E.305, subsection 2, Code 2005, is amended to read as follows:

2. The aggregate amount of tax credits authorized pursuant to this section shall not exceed a total of two million dollars annually. The maximum amount of tax credits granted to a taxpayer shall not exceed five percent of the aggregate amount of tax credits authorized.

Sec. 76. Section 15E.305, subsection 2, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. 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.

Sec. 77. Section 15E.305, subsection 4, Code 2005, is amended to read as follows:

4. A tax credit shall not be authorized pursuant to this section after December 31, ~~2005~~ 2008.

Sec. 78. Section 15E.311, subsection 3, paragraphs a and c, Code 2005, are amended to read as follows:

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 ~~educational, civic, public, charitable, patriotic, or religious uses, as defined in section 99B.7, subsection 3, paragraph "b"~~ 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 ~~educational, civic, public, charitable, patriotic, or religious uses, as defined in section 99B.7, subsection 3, paragraph "b"~~ charitable purposes.

~~c. --For purposes of~~

3A. As used in this subsection section, an "eligible 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 a ~~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.

Sec. 79. Section 15E.311, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Three percent of the moneys deposited in the county endowment fund shall be used by the lead philanthropic organization identified by the department pursuant to section 15E.304 for purposes of administering and marketing the county endowment fund.

Sec. 80. LEGISLATIVE INTENT. It is the intent of the general assembly that the entire two million dollars worth of tax credits allowed under section 15E.305, subsection 2, shall be issued each calendar year.

Sec. 81. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This division of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2005.

DIVISION XIII

E-85 BLENDED GASOLINE

Sec. 82. NEW SECTION. 15.401 E-85 BLENDED GASOLINE.

The department shall provide a cost-share program for financial incentives for the installation or conversion of infrastructure used by service stations to sell and dispense E-85 blended gasoline and for the installation or conversion of infrastructure required to establish on-site and off-site terminal facilities that store biodiesel for distribution to service stations. The department shall provide for an addition of at least thirty new or converted E-85 retail outlets and four new or converted on-site or off-site terminal facilities with a maximum expenditure of three hundred twenty-five thousand dollars per year for the fiscal period beginning July 1, 2005, and ending June 30, 2008. The department may provide for the marketing of these products in conjunction with this infrastructure program.

Sec. 83. Section 452A.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1B. An excise tax of seventeen cents is imposed on each gallon of E-85 gasoline, which contains at

least eighty-five percent denatured alcohol by volume from the first day of April until the last day of October or seventy percent denatured alcohol from the first day of November until the last day of March, used for the privilege of operating motor vehicles in this state.

Sec. 84. Section 452A.3, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1C. The rate of the excise tax on E-85 gasoline imposed in subsection 1B shall be determined based on the number of gallons of E-85 gasoline that is distributed in this state during the previous calendar year. The department shall determine the actual tax paid for E-85 gasoline for each period beginning January 1 and ending December 31. The amount of the tax paid on E-85 gasoline during the past calendar year shall be compared to the amount of tax on E-85 gasoline that would have been paid using the tax rate for gasoline imposed in subsection 1 or 1A and a difference shall be established. If this difference is equal to or greater than twenty-five thousand dollars, the tax rate for E-85 gasoline for the period beginning July 1 following the end of the determination period shall be the rate in effect as stated in subsection 1 or 1A.

Sec. 85. STUDY. The state department of transportation shall review the current revenue levels of the road use tax fund and its sufficiency for the projected construction and maintenance needs of city, county, and state governments in the future. The department shall submit a written report to the general assembly regarding its findings on or before December 31, 2006. The report may include recommendations concerning funding levels needed to support the future mobility and accessibility for users of Iowa's public road system.

Sec. 86. EFFECTIVE DATE. The sections of this division of this Act amending chapter 452A take effect January 1, 2006.

DIVISION XIV

IOWA GREAT PLACES

Sec. 87. NEW SECTION. 303.3C IOWA GREAT PLACES PROGRAM.

1. a. The department of cultural affairs shall establish and administer an Iowa great places program for purposes of combining resources of state government in an effort to showcase the unique and authentic qualities of communities, regions, neighborhoods, and districts that make such places

exceptional places to work and live. The department of cultural affairs shall provide administrative assistance to the Iowa great places board. The department of cultural affairs shall coordinate the efforts of the Iowa great places board with the efforts of state agencies participating in the program which shall include, but not be limited to, the department of economic development, the Iowa finance authority, the department of human rights, the department of natural resources, the department of transportation, and the department of workforce development.

b. The program shall combine resources from state government to capitalize on all of the following aspects of the chosen Iowa great places:

- (1) Arts and culture.
- (2) Historic fabric.
- (3) Architecture.
- (4) Natural environment.
- (5) Housing options.
- (6) Amenities.
- (7) Entrepreneurial incentive for business development.
- (8) Diversity.

c. Initially, three Iowa great places projects shall be identified by the Iowa great places board. Two years after the third project is identified by the board, the board may identify additional Iowa great places for participation under the program.

2. a. The Iowa great places board is established consisting of twelve members. The board shall be located for administrative purposes within the department of cultural affairs and the director shall provide office space, staff assistance, and necessary supplies and equipment for the board. The director shall budget moneys to pay the compensation and expenses of the board. In performing its functions, the board is performing a public function on behalf of the state and is a public instrumentality of the state.

b. The members of the board shall be appointed by the governor, subject to confirmation by the senate. At least one member shall be less than thirty years old on the date the member is appointed by the governor. The board shall include representatives of cities and counties, local government officials, cultural leaders, housing developers, business owners, and parks officials.

c. The chairperson and vice chairperson shall be elected by the board members from the membership of the board. In the case of the absence or disability of the chairperson and vice chairperson, the members of the board shall elect a temporary chairperson by a majority vote of those members who are present and voting, provided a quorum is present.

d. Members of the board shall be appointed to three-year staggered terms and the terms shall commence and end as provided in section 69.19. If a vacancy occurs, a successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired term.

e. A majority of the members of the board constitutes a quorum.

f. A member of the board shall abstain from voting on the provision of financial assistance to a project which is located in the county in which the member of the board resides.

g. The members of the board are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. A board member may also be eligible to receive compensation as provided in section 7E.6.

3. The board shall do all of the following:

a. Organize.

b. Identify three Iowa great places for purposes of receiving a package of resources under the program.

c. Identify a combination of state resources which can be provided to Iowa great places.

DIVISION XV

PORT AUTHORITIES

Sec. 88. Section 12.30, subsection 1, paragraph a, Code 2005, is amended to read as follows:

a. "Authority" means a department, or public or quasi-public instrumentality of the state including, but not limited to, the authority created under chapter 12E, 16, 16A, 175, 257C, 261A, or 327I, which has the power to issue obligations, except that "authority" does not include the state board of regents or the Iowa finance authority to the extent it acts pursuant to chapter 260C. "Authority" also includes a port authority created under chapter 28J.

Sec. 89. NEW SECTION. 28J.1 DEFINITIONS.

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

1. "Authorized purposes" means an activity that enhances, fosters, aids, provides, or promotes transportation, economic development, housing, recreation, education, governmental operations, culture, or research within the jurisdiction of a port authority.

2. "Board" means the board of directors of a port authority established pursuant to section 28J.2.

3. "City" means the same as defined in section 362.2.

4. "Construction" means alteration, creation, development, enlargement, erection, improvement, installation, reconstruction, remodeling, and renovation.

5. "Contracting governmental agency" means any governmental agency or taxing district of the state that, by action of its legislative authority, enters into an agreement with a port authority pursuant to section 28J.17.

6. "Cost" as applied to a port authority facility means any of the following:

a. The cost of construction contracts, land, rights-of-way, property rights, easements, franchise rights, and interests required for acquisition or construction.

b. The cost of demolishing or removing any buildings or structures on land, including the cost of acquiring any lands to which those buildings or structures may be moved.

c. The cost of diverting a highway, interchange of a highway, and access roads to private property, including the cost of land or easements, and relocation of a facility of a utility company or common carrier.

d. The cost of machinery, furnishings, equipment, financing charges, interest prior to and during construction and for no more than twelve months after completion of construction, engineering, and expenses of research and development with respect to a facility.

e. Legal and administrative expenses, plans, specifications, surveys, studies, estimates of cost and revenues, engineering services, and other expenses necessary or incident to determining the feasibility or practicability of acquiring or constructing a facility.

f. The interest upon the revenue bonds and pledge orders during the period or estimated period of construction and for

twelve months thereafter, or for twelve months after the acquisition date, reserve funds as the port authority deems advisable in connection with a facility and the issuance of port authority revenue bonds and pledge orders.

g. The costs of issuance of port authority revenue bonds and pledge orders.

h. The cost of diverting a rail line, rail spur track, or rail spur track switch, including the cost of land or easements, and relocation of a facility of a utility company or common carrier.

i. The cost of relocating an airport's runways, terminals, and related facilities including the cost of land or easements, and relocation of a facility of a utility company or common carrier.

7. "Facility" or "port authority facility" means real or personal property owned, leased, or otherwise controlled or financed by a port authority and related to or in furtherance of one or more authorized purposes.

8. "Governmental agency" means a department, division, or other unit of state government of this state or any other state, city, county, township, or other governmental subdivision, or any other public corporation or agency created under the laws of this state, any other state, the United States, or any department or agency thereof, or any agency, commission, or authority established pursuant to an interstate compact or agreement or combination thereof.

9. "Person" means the same as defined in section 4.1.

10. "Pledge order" means a promise to pay out of the net revenues of a port authority, which is delivered to a contractor or other person in payment of all or part of the cost of a facility.

11. "Political subdivision" means a city, county, city-county consolidation, or multicounty consolidation, or combination thereof.

12. "Political subdivisions comprising the port authority" means the political subdivisions which created or participated in the creation of the port authority under section 28J.2, or which joined an existing port authority under section 28J.4.

13. "Port authority" means an entity created pursuant to section 28J.2.

14. "Port authority revenue bonds" means revenue bonds and revenue refunding bonds issued pursuant to section 28J.21.

15. "Public roads" means all public highways, roads, and streets in this state, whether maintained by the state or by a county or city.

16. "Revenues" means rental fees and other charges received by a port authority for the use or services of a facility, a gift or grant received with respect to a facility, moneys received with respect to the lease, sublease, sale, including installment sale or conditional sale, or other disposition of a facility, moneys received in repayment of and for interest on any loans made by the port authority to a person or governmental agency, proceeds of port authority revenue bonds for payment of principal, premium, or interest on the bonds authorized by the port authority, proceeds from any insurance, condemnation, or guarantee pertaining to the financing of the facility, and income and profit from the investment of the proceeds of port authority revenue bonds or of any revenues.

Sec. 90. NEW SECTION. 28J.2 CREATION AND POWERS OF PORT AUTHORITY.

1. Two or more political subdivisions may create a port authority under this chapter by resolution. If a proposal to create a port authority receives a favorable majority of the members of the elected legislative body of the political subdivision, the port authority is created at the time provided in the resolution. The jurisdiction of a port authority includes the territory described in section 28J.8.

2. A port authority created pursuant to this section may sue and be sued, complain, and defend in its name and has the powers and jurisdiction enumerated in this chapter.

3. At the time a port authority is created pursuant to this section, the political subdivisions comprising the port authority may restrict the powers granted the port authority pursuant to this chapter by specifically adopting such restrictions in the resolution creating the port authority.

4. The political subdivisions comprising the port authority whose powers have been restricted pursuant to subsection 3 may at any time adopt a resolution to grant additional powers to the port authority, so long as the additional powers do not exceed the powers permitted under this chapter.

Sec. 91. NEW SECTION. 28J.3 APPROPRIATION AND EXPENDITURE OF PUBLIC FUNDS -- DISSOLUTION.

1. The political subdivisions comprising a port authority may appropriate and expend public funds to finance or subsidize the operation and authorized purposes of the port authority. A port authority shall control tax revenues allocated to the facilities the port authority administers and all revenues derived from the operation of the port authority, the sale of its property, interest on investments, or from any other source related to the port authority.

2. All revenues received by the port authority shall be held in a separate fund in a manner agreed to by the political subdivisions comprising the port authority. Revenues may be paid out only at the direction of the board of directors of the port authority.

3. A port authority shall comply with section 331.341, subsections 1, 2, 4, and 5, and section 331.342, when contracting for public improvements.

4. Subject to making due provisions for payment and performance of any outstanding obligations, the political subdivisions comprising the port authority may dissolve the port authority, and transfer the property of the port authority to the political subdivisions comprising the port authority in a manner agreed upon between the political subdivisions comprising the port authority prior to the dissolution of the port authority.

Sec. 92. NEW SECTION. 28J.4 JOINING AN EXISTING PORT AUTHORITY.

1. A political subdivision which is contiguous to either a political subdivision which participated in the creation of the port authority or a political subdivision which proposes to join the port authority at the same time which is contiguous to a political subdivision which participated in the creation of the port authority may join the port authority by resolution.

2. If more than one such political subdivision proposes to join the port authority at the same time, the resolution of each such political subdivision shall designate the political subdivisions which are to be so joined.

3. Any territory or city not included in a port authority which is annexed to a city included within the jurisdiction of a port authority shall, on such annexation and without further proceedings, be annexed to and be included in the jurisdiction of the port authority.

4. Before a political subdivision is joined to a port authority, other than by annexation to a city, the political subdivisions comprising the port authority shall agree upon the terms and conditions pursuant to which such political subdivision is to be joined.

5. For the purpose of this chapter, such political subdivision shall be considered to have participated in the creation of the port authority, except that the initial term of any director of the port authority appointed by a joining political subdivision shall be four years.

6. After each resolution proposing a political subdivision to join a port authority has become effective and the terms and conditions of joining the port authority have been agreed to, the board of directors of the port authority shall by resolution either accept or reject the proposal. Such proposal to join a port authority shall be effective upon adoption of the resolution by the board of directors of the port authority and thereupon the jurisdiction of the port authority includes the joining political subdivision.

Sec. 93. NEW SECTION. 28J.5 MEMBERSHIP OF BOARD OF DIRECTORS.

1. A port authority created pursuant to section 28J.2 shall be governed by a board of directors. Members of a board of directors of a port authority shall be divided among the political subdivisions comprising the port authority in such proportions as the political subdivisions may agree and shall be appointed by the respective political subdivision's elected legislative body.

2. The number of directors comprising the board shall be determined by agreement between the political subdivisions comprising the port authority, and which number may be changed by resolution of the political subdivisions comprising the port authority.

3. A majority of the directors shall have been qualified electors of, or owned a business or been employed in, one or more political subdivisions within the area of the jurisdiction of the port authority for a period of at least three years preceding appointment.

4. The directors of a port authority first appointed shall serve staggered terms. Thereafter each successor director shall serve for a term of four years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term. A director is eligible for reappointment.

5. The board may provide procedures for the removal of a director who fails to attend three consecutive regular meetings of the board. If a director is so removed, a successor shall be appointed for the remaining term of the removed director in the same manner provided for the original appointment. The appointing body may at any time remove a director appointed by it for misfeasance, nonfeasance, or malfeasance in office.

6. The board may adopt bylaws and shall elect one director as chairperson and one director as vice chairperson, designate terms of office, and appoint a secretary who need not be a director.

7. A majority of the board of directors shall constitute a quorum for the purpose of holding a meeting of the board. The affirmative vote of a majority of a quorum shall be necessary for any action taken by the port authority unless the board determines that a greater number of affirmative votes is necessary for particular actions to be taken by the port authority. A vacancy in the membership of the board shall not impair the rights of a quorum to exercise all the rights and perform all the duties of the port authority.

8. Each director shall be entitled to receive from the port authority such sum of money as the board may determine as compensation for services as a director and reimbursement for reasonable expenses in the performance of official duties.

Sec. 94. NEW SECTION. 28J.6 CIVIL IMMUNITY OF DIRECTORS.

A director of a port authority shall not be personally liable for any monetary damages that arise from actions taken in the performance of the director's official duties, except for acts or omissions that are not in good faith or that involve intentional misconduct, a knowing violation of law, or any transaction from which the director derived an improper personal benefit.

Sec. 95. NEW SECTION. 28J.7 EMPLOYEES, ADVISORY BOARD, PEACE OFFICERS.

1. A port authority shall employ and fix the qualifications, duties, and compensation of any employees and enter into contracts for any services that may be required to conduct the business of the port authority, and may appoint an advisory board, which shall serve without compensation.

2. An employee of a port authority is a public employee for the purposes of collective bargaining under chapter 20.

3. a. A port authority may provide for the administration and enforcement of the laws of the state by employing peace officers who shall have all the powers conferred by law on peace officers of this state with regard to the apprehension of violators upon all property under its control within and without the port authority. The peace officers may seek the assistance of other appropriate law enforcement officers to enforce its rules and maintain order.

b. Peace officers employed by a port authority shall meet all requirements as police officers appointed under the civil service law of chapter 400 and shall participate in the retirement system established by chapter 411.

c. Peace officers employed by a port authority shall serve as a peace officer force with respect to the property, grounds, buildings, equipment, and facilities under the control of the port authority, to prevent hijacking of aircraft or watercraft, protect the property of the authority and the property of others located thereon, suppress nuisances and disturbances and breaches of the peace, and enforce laws and the rules of the port authority for the preservation of good order. Peace officers are vested with the same powers of arrest as peace officers under section 804.7.

4. If an employee of a political subdivision comprising the port authority is transferred to a comparable position with the port authority, the employee is entitled to suffer no loss in pay, pension, fringe benefits, or other benefits and shall be entitled to a comparable rank and grade as the employee's prior position. Sick leave, longevity, and vacation time accrued to such employees shall be credited to them as employees of the port authority. All rights and accruals of such employees as members of the Iowa public employees' retirement system pursuant to chapter 97B and the retirement system for police officers pursuant to chapter 411 shall remain in force and shall be automatically transferred to the port authority.

Sec. 96. NEW SECTION. 28J.8 AREA OF JURISDICTION.

1. The area of jurisdiction of a port authority shall include all of the territory of the political subdivisions comprising the port authority and, if the port authority owns or leases a railroad line or airport, the territory on which the railroad's line, terminals, and related facilities or the airport's runways, terminals, and related facilities are

located, regardless of whether the territory is located in the political subdivisions comprising the port authority.

2. A political subdivision that has created a port authority or joined an existing port authority shall not be included in any other port authority.

Sec. 97. NEW SECTION. 28J.9 POWERS OF PORT AUTHORITY.

A port authority may exercise all of the following powers:

1. Adopt bylaws for the regulation of the port authority's affairs and the conduct of the port authority's business.

2. Adopt an official seal.

3. Maintain a principal office and branch offices within the port authority's jurisdiction.

4. Acquire, construct, furnish, equip, maintain, repair, sell, exchange, lease, lease with an option to purchase, convey interests in real or personal property, and operate any property of the port authority in connection with transportation, recreational, governmental operations, or cultural activities in furtherance of an authorized purpose.

5. Straighten, deepen, and improve any channel, river, stream, or other watercourse or way which may be necessary or proper in the development of the facilities of the port authority.

6. Make available the use or services of any facility of the port authority to any person or governmental agency.

7. Issue bonds or pledge orders pursuant to the requirements and limitations in section 28J.21.

8. Issue port authority revenue bonds beyond the limit of bonded indebtedness provided by law, payable solely from revenues as provided in section 28J.21, for the purpose of providing funds to pay the costs of any facility or facilities of the port authority or parts thereof.

9. Apply to the proper authorities of the United States for the right to establish, operate, and maintain foreign trade zones and establish, operate, and maintain foreign trade zones and to acquire, exchange, sell, lease to or from, lease with an option to purchase, or operate facilities, land, or property in accordance with the federal Foreign Trade Zones Act, 19 U.S.C. § 81a-81u.

10. Enjoy and possess the same legislative and executive rights, privileges, and powers granted cities under chapter 364 and counties under chapter 331, including the exercise of police power but excluding the power to levy taxes.

11. Maintain such funds as it considers necessary and adhere to the public funds investment standards of chapter 12B, as applicable.

12. Direct port authority agents or employees, after at least five days' written notice, to enter upon lands within the port authority's jurisdiction to make surveys and examinations preliminary to location and construction of works for the port authority, without liability of the port authority or its agents or employees except for actual damages.

13. Promote, advertise, and publicize the port authority and its facilities, and provide information to shippers and other commercial interests.

14. Adopt bylaws, not in conflict with state or federal law, necessary or incidental to the performance of the duties of and the execution of the powers of the port authority under this chapter.

15. Do any of the following in regard to interests in real or personal property, including machinery, equipment, plants, factories, offices, and other structures and facilities related to or in furtherance of any authorized purpose as the board in its sole discretion may determine:

a. Loan money to any person or governmental agency for the acquisition, construction, furnishing, or equipping of the property.

b. Acquire, construct, maintain, repair, furnish, or equip the property.

c. Sell to, exchange with, lease, convey other interests in, or lease with an option to purchase the same or any lesser interest in the property to the same or any other person or governmental agency.

d. Guarantee the obligations of any person or governmental agency.

e. Accept and hold as consideration for the conveyance of property or any interest therein such property or interests therein as the board may determine, notwithstanding any restrictions that apply to the investment of funds by a port authority.

16. Sell, lease, or convey other interests in real and personal property, and grant easements or rights-of-way over property of the port authority. The board shall specify the consideration and terms for the sale, lease, or conveyance of

other interests in real and personal property. A determination made by the board under this subsection shall be conclusive. The sale, lease, or conveyance may be made without advertising and the receipt of bids.

17. Enter into an agreement with a political subdivision comprising the port authority for the political subdivision to exercise its right of eminent domain pursuant to chapters 6A and 6B on behalf of the port authority. However, a condemnation exercised on behalf of a port authority pursuant to this subsection shall not take or disturb property or a facility belonging to a governmental agency, utility company, or common carrier, which property or facility is necessary and convenient in the operation of the governmental agency, utility company, or common carrier, unless provision is made for the restoration, relocation, or duplication of such property or facility, or upon the election of the governmental agency, utility company, or common carrier, for the payment of compensation, if any, at the sole cost of the port authority, provided that both of the following apply:

a. If a restoration or duplication proposed to be made under this subsection involves a relocation of the property or facility, the new facility and location shall be of at least comparable utilitarian value and effectiveness and shall not impair the ability of the utility company or common carrier to compete in its original area of operation.

b. If a restoration or duplication made under this subsection involves a relocation of the property or facility, the port authority shall acquire no interest or right in or to the appropriated property or facility, until the relocated property or facility is available for use and until marketable title thereto has been transferred to the utility company or common carrier.

18. a. Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of the duties of and the execution of powers of the port authority under this chapter.

b. Except as provided in paragraph "c", when the cost of a contract for the construction of a building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding twenty-five thousand dollars, and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids

for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority. Each such contract shall be let to the lowest responsive and responsible bidder. Every contract shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority, and signed by an authorized officer of the port authority and by the contractor.

c. The board of directors may provide criteria for the negotiation and award without competitive bidding of any contract as to which the port authority is the contracting entity for the construction of any building or structure or other improvement under any of the following circumstances:

(1) A real and present emergency exists that threatens damage or injury to persons or property of the port authority or other persons, provided that a statement specifying the nature of the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed by the officer of the port authority that executes that contract at the time of the contract's execution and shall be attached to the contract.

(2) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.

(3) The contract is for any energy conservation measure as defined in section 7D.34.

(4) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material.

(5) A single bid is received by the port authority after complying with the provisions of paragraph "b".

d. (1) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in paragraph "c", subparagraph (2), the port authority shall publish a notice calling for technical proposals at least twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority. After receipt of the technical proposals, the port authority may negotiate with and award a contract for the improvement to the person making the proposal considered to be the most advantageous to the port authority.

(2) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in paragraph "c", subparagraph (4), construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material.

e. A purchase, exchange, sale, lease, lease with an option to purchase, conveyance of other interests in, or other contract with a person or governmental agency that pertains to the acquisition, construction, maintenance, repair, furnishing, equipping, or operation of any real or personal property, related to or in furtherance of economic development and the provision of adequate housing, shall be made in such manner and subject to such terms and conditions as may be determined in the board's discretion. This paragraph applies to all contracts that are subject to this section, notwithstanding any other provision of law that might otherwise apply, including a requirement of notice, competitive bidding or selection, or for the provision of security. However, this paragraph shall not apply to a contract secured exclusively by or to be paid exclusively from the general revenues of the port authority. For the purposes of this paragraph, any revenues derived by the port authority under a lease or other agreement that, by its terms, contemplates the use of amounts payable under the agreement either to pay the costs of the improvement that is the subject of the contract or to secure obligations of the port authority issued to finance costs of such improvement, are excluded from general revenues.

19. Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and any other consultants and independent contractors as are necessary in the port authority's judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable from any available funds of the port authority or from funds appropriated for that purpose by the political subdivisions comprising the port authority.

20. Receive and accept from a governmental agency grants and loans for the construction of a port authority facility, for research and development with respect to a port authority facility, or any other authorized purpose, and receive and

accept aid or contributions from any source of moneys, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the grants, loans, aid, or contributions are made.

21. Engage in research and development with respect to a port authority facility.

22. Purchase fire and extended coverage and liability insurance for a port authority facility and for the principal office and branch offices of the port authority, insurance protecting the port authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the port authority may agree to provide under a resolution authorizing port authority revenue bonds, pledge orders, or in any trust agreement securing the same.

23. Charge, alter, and collect rental fees and other charges for the use or services of a port authority facility as provided in section 28J.16.

24. Perform all acts necessary or proper to carry out the powers expressly granted in this chapter.

Sec. 98. NEW SECTION. 28J.10 PARTICIPATION OF PRIVATE ENTERPRISE.

The port authority shall foster and encourage the participation of private enterprise in the development of the port authority facilities to the fullest extent practicable in the interest of limiting the necessity of construction and operation of the facilities by the port authority.

Sec. 99. NEW SECTION. 28J.11 PROVISIONS DO NOT AFFECT OTHER LAWS OR POWERS.

This chapter shall not do any of the following:

1. Impair a provision of law directing the payment of revenues derived from public property into sinking funds or dedicating those revenues to specific purposes.

2. Impair the powers of a political subdivision to develop or improve a port and terminal facility except as restricted by section 28J.15.

3. Enlarge, alter, diminish, or affect in any way, a lease or conveyance made, or action taken prior to the creation of a port authority under section 28J.2 by a city or a county.

4. Impair or interfere with the exercise of a permit for the removal of sand or gravel, or other similar permits issued by a governmental agency.

5. Impair or contravene applicable federal regulations.

Sec. 100. NEW SECTION. 28J.12 CONVEYANCE, LEASE, OR EXCHANGE OF PUBLIC PROPERTY.

A port authority may convey or lease, lease with an option to purchase, or exchange with any governmental agency or other port authority without competitive bidding and on mutually agreeable terms, any personal or real property, or any interest therein.

Sec. 101. NEW SECTION. 28J.13 ANNUAL BUDGET -- USE OF RENTS AND CHARGES.

The board shall annually prepare a budget for the port authority. Revenues received by the port authority shall be used for the general expenses of the port authority and to pay interest, amortization, and retirement charges on money borrowed. Except as provided in section 28J.26, if there remains, at the end of any fiscal year, a surplus of such funds after providing for the above uses, the board shall pay such surplus into the general funds of the political subdivisions comprising the port authority as agreed to by the subdivisions.

Sec. 102. NEW SECTION. 28J.14 SECRETARY TO FURNISH BOND -- DEPOSIT AND DISBURSEMENT OF FUNDS.

Before receiving any revenues, the secretary of a port authority shall furnish a bond in such amount as shall be determined by the port authority with sureties satisfactory to the port authority, and all funds coming into the hands of the secretary shall be deposited by the secretary to the account of the port authority in one or more such depositories as shall be qualified to receive deposits of county funds, which deposits shall be secured in the same manner as county funds are required to be secured. A disbursement shall not be made from such funds except in accordance with policies and procedures adopted by the port authority.

Sec. 103. NEW SECTION. 28J.15 LIMITATION ON CERTAIN POWERS OF POLITICAL SUBDIVISIONS.

A political subdivision creating or participating in the creation of a port authority in accordance with section 28J.2 shall not, during the time the port authority is in existence, exercise the rights and powers provided in chapters 28A, 28K, and 384 relating to the political subdivision's authority over a port, wharf, dock, harbor or other facility substantially similar to that political subdivision's authority under a port authority granted under this chapter.

Sec. 104. NEW SECTION. 28J.16 RENTALS OR CHARGES FOR USE OR SERVICES OF FACILITIES -- AGREEMENTS WITH GOVERNMENTAL AGENCIES.

1. a. A port authority may charge, alter, and collect rental fees or other charges for the use or services of any port authority facility and contract for the use or services of a facility, and fix the terms, conditions, rental fees, or other charges for the use or services.

b. If the services are furnished in the jurisdiction of the port authority by a utility company or a common carrier, the port authority's charges for the services shall not be less than the charges established for the same services furnished by a utility company or common carrier in the port authority jurisdiction.

c. The rental fees or other charges shall not be subject to supervision or regulation by any other authority, commission, board, bureau, or governmental agency of the state and the contract may provide for acquisition of all or any part of the port authority facility for such consideration payable over the period of the contract or otherwise as the port authority determines to be appropriate, but subject to the provisions of any resolution authorizing the issuance of port authority revenue bonds or any trust agreement securing the bonds.

d. A governmental agency that has power to construct, operate, and maintain a port authority facility may enter into a contract or lease with a port authority for the use or services of a port authority facility as may be agreed to by the port authority and the governmental agency.

2. a. A governmental agency may cooperate with the port authority in the acquisition or construction of a port authority facility and shall enter into such agreements with the port authority as may be appropriate, which shall provide for contributions by the parties in a proportion as may be agreed upon and other terms as may be mutually satisfactory to the parties including the authorization of the construction of the facility by one of the parties acting as agent for all of the parties and the ownership and control of the facility by the port authority to the extent necessary or appropriate.

b. A governmental agency may provide funds for the payment of any contribution required under such agreements by the levy of taxes or assessments if otherwise authorized by the laws

governing the governmental agency in the construction of the type of port authority facility provided for in the agreements, and may pay the proceeds from the collection of the taxes or assessments; or the governmental agency may issue bonds or notes, if authorized by law, in anticipation of the collection of the taxes or assessments, and may pay the proceeds of the bonds or notes to the port authority pursuant to such agreements.

c. A governmental agency may provide the funds for the payment of a contribution by the appropriation of moneys or, if otherwise authorized by law, by the issuance of bonds or notes and may pay the appropriated moneys or the proceeds of the bonds or notes to the port authority pursuant to such agreements.

3. When the contribution of any governmental agency is to be made over a period of time from the proceeds of the collection of special assessments, the interest accrued and to accrue before the first installment of the assessments is collected, which is payable by the governmental agency on the contribution under the terms and provisions of the agreements, shall be treated as part of the cost of the improvement for which the assessments are levied, and that portion of the assessments that is collected in installments shall bear interest at the same rate as the governmental agency is obligated to pay on the contribution under the terms and provisions of the agreements and for the same period of time as the contribution is to be made under the agreements. If the assessment or any installment thereof is not paid when due, it shall bear interest until the payment thereof at the same rate as the contribution and the county auditor shall annually place on the tax list and duplicate the interest applicable to the assessment and the penalty thereon as otherwise authorized by law.

4. A governmental agency, pursuant to a favorable vote in an election regarding issuing bonds to provide funds to acquire, construct, or equip, or provide real estate and interests in real estate for a port authority facility, whether or not the governmental agency at the time of the election had the authority to pay the proceeds from the bonds or notes issued in anticipation of the bonds to the port authority as provided in this section, may issue such bonds or notes in anticipation of the issuance of the bonds and pay the

proceeds of the bonds or notes to the port authority in accordance with an agreement with the port authority; provided, that the legislative authority of the governmental agency finds and determines that the port authority facility to be acquired or constructed in cooperation with the governmental agency will serve the same public purpose and meet substantially the same public need as the facility otherwise proposed to be acquired or constructed by the governmental agency with the proceeds of the bonds and notes.

Sec. 105. NEW SECTION. 28J.17 CONTRACTS, ARRANGEMENTS, AND AGREEMENTS.

1. a. A port authority may enter into a contract or other arrangement with a person, railroad, utility company, corporation, governmental agency including sewerage, drainage, conservation, conservancy, or other improvement districts in this or other states, or the governments or agencies of foreign countries as may be necessary or convenient for the exercise of the powers granted by this chapter. The port authority may purchase, lease, or acquire land or other property in any county of this state and in adjoining states for the accomplishment of authorized purposes of the port authority, or for the improvement of the harbor and port facilities over which the port authority may have jurisdiction including development of port facilities in adjoining states. The authority granted in this section to enter into contracts or other arrangements with the federal government includes the power to enter into any contracts, arrangements, or agreements that may be necessary to hold and save harmless the United States from damages due to the construction and maintenance by the United States of work the United States undertakes.

b. A political subdivision that has participated in the creation of a port authority, or is within, or adjacent to a political subdivision that is within the jurisdiction of a port authority, may enter into an agreement with the port authority to accomplish any of the authorized purposes of the port authority. The agreement may set forth the extent to which the port authority shall act as the agent of the political subdivision.

2. A port authority may enter into an agreement with a contracting governmental agency, whereby the port authority or the contracting governmental agency undertakes, and is authorized by the port authority or a contracting governmental

agency, to exercise any power, perform any function, or render any service, on behalf of the port authority or a contracting governmental agency, which the port authority or the contracting governmental agency is authorized to exercise, perform, or render.

Sec. 106. NEW SECTION. 28J.18 REVENUE BONDS ARE LAWFUL INVESTMENTS.

Port authority revenue bonds issued pursuant to this chapter are lawful investments of banks, credit unions, trust companies, savings and loan associations, deposit guaranty associations, insurance companies, trustees, fiduciaries, trustees or other officers having charge of the bond retirement funds or sinking funds of port authorities and governmental agencies, and taxing districts of this state, the pension and annuity retirement system, the Iowa public employees' retirement system, the police and fire retirement systems under chapters 410 and 411, a revolving fund of a governmental agency of this state, and are acceptable as security for the deposit of public funds under chapter 12C.

Sec. 107. NEW SECTION. 28J.19 PROPERTY TAX EXEMPTION.

A port authority shall be exempt from and shall not be required to pay taxes on real property belonging to a port authority that is used exclusively for an authorized purpose as provided in section 427.1, subsection 34.

Sec. 108. NEW SECTION. 28J.20 LOANS FOR ACQUISITION OR CONSTRUCTION OF FACILITY -- SALE OF FACILITY -- POWER TO ENCUMBER PROPERTY.

1. With respect to the financing of a facility for an authorized purpose, under an agreement whereby the person to whom the facility is to be leased, subleased, or sold, or to whom a loan is to be made for the facility, is to make payments sufficient to pay all of the principal of, premium, and interest on the port authority revenue bonds issued for the facility, the port authority, in addition to other powers under this chapter, may do any of the following:

a. Make loans for the acquisition or construction of the facility to such person upon such terms as the port authority may determine or authorize including secured or unsecured loans, and enter into loan agreements and other agreements, accept notes and other forms of obligation to evidence such indebtedness and mortgages, liens, pledges, assignments, or other security interests to secure such indebtedness, which

may be prior or subordinate to or on a parity with other indebtedness, obligations, mortgages, pledges, assignments, other security interests, or liens or encumbrances, and take actions considered appropriate to protect such security and safeguard against losses, including, without limitation, foreclosure and the bidding upon and purchase of property upon foreclosure or other sale.

b. Sell the facility under terms as the port authority may determine, including sale by conditional sale or installment sale, under which title may pass prior to or after completion of the facility or payment or provisions for payment of all principal of, premium, and interest on the revenue bonds, or at any other time provided in the agreement pertaining to the sale, and including sale under an option to purchase at a price which may be a nominal amount or less than true value at the time of purchase.

c. Grant a mortgage, lien, or other encumbrance on, or pledge or assignment of, or other security interest with respect to, all or any part of the facility, revenues, reserve funds, or other funds established in connection with the bonds or with respect to a lease, sublease, sale, conditional sale or installment sale agreement, loan agreement, or other agreement pertaining to the lease, sublease, sale, or other disposition of a facility or pertaining to a loan made for a facility, or a guaranty or insurance agreement made with respect thereto, or an interest of the port authority therein, or any other interest granted, assigned, or released to secure payments of the principal of, premium, or interest on the bonds or to secure any other payments to be made by the port authority, which mortgage, lien, encumbrance, pledge, assignment, or other security interest may be prior or subordinate to or on a parity with any other mortgage, assignment, or other security interest, or lien or encumbrance.

d. Contract for the acquisition or construction of the facility or any part thereof and for the leasing, subleasing, sale, or other disposition of the facility in a manner determined by the port authority in its sole discretion, without necessity for competitive bidding or performance bonds.

e. Make appropriate provision for adequate maintenance of the facility.

2. With respect to a facility referred to in this section, the authority granted by this section is cumulative and supplementary to all other authority granted in this chapter. The authority granted by this section does not alter or impair a similar authority granted elsewhere in this chapter for or with respect to other facilities.

Sec. 109. NEW SECTION. 28J.21 ISSUANCE OF REVENUE AND REFUNDING BONDS.

1. A port authority may issue revenue bonds and pledge orders payable solely from the net revenues of the port authority including the revenues generated from a facility pursuant to section 28J.20. The revenue bonds may be issued in such principal amounts as, in the opinion of the port authority, are necessary for the purpose of paying the cost of one or more port authority facilities or parts thereof.

2. a. The resolution to issue the bonds must be adopted at a regular or special meeting of the board called for that purpose by a majority of the total number of members of the board. The board shall fix a date, time, and place of meeting at which it proposes to take action, and give notice by publication in the manner directed in section 331.305. The notice must include a statement of the date, time, and place of the meeting, the maximum amount of the proposed revenue bonds, the purpose for which the revenue bonds will be issued, and the net revenues to be used to pay the principal and interest on the revenue bonds.

b. At the meeting the board shall receive oral or written objections from any resident or property owner within the jurisdiction of the port authority. After all objections have been received and considered, the board, at the meeting or a date to which it is adjourned, may take additional action for the issuance of the bonds or abandon the proposal to issue bonds. Any resident or property owner within the jurisdiction of the port authority may appeal a decision of the board to take additional action in district court within fifteen days after the additional action is taken, but the additional action of the board is final and conclusive unless the court finds that the board exceeded its authority.

3. The board may sell revenue bonds or pledge orders at public or private sale and may deliver revenue bonds and pledge orders to the contractors, sellers, and other persons furnishing materials and services constituting a part of the

cost of the port authority facility in payment therefor. The pledge of any net revenues of a port authority is valid and effective as to all persons including but not limited to other governmental bodies when it becomes valid and effective between the port authority and the holders of the revenue bonds or pledge orders.

4. A revenue bond is valid and binding for all purposes if it bears the signatures or a facsimile of the signature of the officer designated by the port authority. Port authority revenue bonds may bear dates, bear interest at rates not exceeding those permitted by chapter 74A, bear interest at a variable rate or rates changing from time to time in accordance with a base or formula, mature in one or more installments, be in registered form, carry registration and conversion privileges, be payable as to principal and interest at times and places, be subject to terms of redemption prior to maturity with or without premium, and be in one or more denominations, all as provided by the resolution of the board authorizing their issuance. The resolution may also prescribe additional provisions, terms, conditions, and covenants which the port authority deems advisable, consistent with this chapter, including provisions for creating and maintaining reserve funds, the issuance of additional revenue bonds ranking on a parity with such revenue bonds and additional revenue bonds junior and subordinate to such revenue bonds, and that such revenue bonds shall rank on a parity with or be junior and subordinate to any revenue bonds which may be then outstanding. Port authority revenue bonds are a contract between the port authority and holders and the resolution is a part of the contract.

5. The port authority may issue revenue bonds to refund revenue bonds, pledge orders, and other obligations which are by their terms payable from the net revenues of the same port authority, at lower, the same, or higher rates of interest. A port authority may sell refunding revenue bonds at public or private sale and apply the proceeds to the payment of the obligations being refunded, and may exchange refunding revenue bonds in payment and discharge of the obligations being refunded. The principal amount of refunding revenue bonds may exceed the principal amount of the obligations being refunded to the extent necessary to pay any premium due on the call of the obligations being refunded and to fund interest accrued and to accrue on the obligations being refunded.

6. The final maturity of any original issue of port authority revenue bonds shall not exceed forty years from the date of issue, and the final maturity of port authority revenue bonds that refund outstanding port authority revenue bonds shall not be later than the later of forty years from the date of issue of the original issue of bonds or the date by which it is expected, at the time of issuance of the refunding bonds, that the useful life of all of the property refinanced with the proceeds of the bonds, other than interests in land, will have expired. Such bonds or notes shall be executed in a manner as the resolution may provide.

7. The port authority may contract to pay an amount not to exceed ninety-five percent of the engineer's estimated value of the acceptable work completed during the month to the contractor at the end of each month for work, material, or services. Payment may be made in warrants drawn on any fund from which payment for the work may be made. If such funds are depleted, anticipatory warrants may be issued bearing a rate of interest not exceeding that permitted by chapter 74A even if income from the sale of bonds which have been authorized and are applicable to the public improvement takes place after the fiscal year in which the warrants are issued. If the port authority arranges for the private sale of anticipatory warrants, the warrants may be sold and the proceeds used to pay the contractor. The warrants may also be used to pay other persons furnishing services constituting a part of the cost of the public improvement.

8. Port authority revenue bonds, pledge orders, and warrants issued under this section are negotiable instruments.

9. The board may issue pledge orders pursuant to a resolution adopted by a majority of the total number of supervisors, at a regular or special meeting, ordering their issuance and delivery in payment for all or part of the cost of a project. Pledge orders may bear interest at rates not exceeding those permitted by chapter 74A.

10. Except as provided in section 28J.20, the physical properties of the port authority shall not be pledged or mortgaged to secure the payment of revenue bonds, pledge orders, or refunding bonds, or the interest thereon.

11. The members of the board of the port authority and any person executing the bonds or pledge orders shall not be personally liable on the bonds or pledge orders or be subject

to any personal liability or accountability by reason of the issuance thereof.

Sec. 110. NEW SECTION. 28J.22 BONDS MAY BE SECURED BY TRUST AGREEMENT.

1. In the discretion of the port authority, a port authority revenue bond issued under this chapter may be secured by a trust agreement between the port authority and a corporate trustee that may be any trust company or bank having the powers of a trust company within this or any other state.

2. The trust agreement may pledge or assign revenues of the port authority to be received for payment of the revenue bonds. The trust agreement or any resolution providing for the issuance of revenue bonds may contain provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the port authority in relation to the acquisition of property, the construction, improvement, maintenance, repair, operation, and insurance of the port authority facility in connection with which the bonds are authorized, the rentals or other charges to be imposed for the use or services of any port authority facility, the custody, safeguarding, and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of any port authority facility.

3. A bank or trust company incorporated under the laws of this state, that may act as the depository of the proceeds of bonds or of revenues, shall furnish any indemnifying bonds or may pledge any securities that are required by the port authority. The trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing similar bonds. The trust agreement may contain any other provisions that the port authority determines reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust agreement may be treated as a part of the cost of the operation of the port authority facility.

Sec. 111. NEW SECTION. 28J.23 REMEDY OF HOLDER OF BOND OR COUPON -- STATUTE OF LIMITATIONS.

1. The sole remedy for a breach or default of a term of a port authority revenue bond or pledge order is a proceeding in law or in equity by suit, action, or mandamus to enforce and compel performance of the duties required by this chapter and of the terms of the resolution authorizing the issuance of the revenue bonds or pledge orders, or to obtain the appointment of a receiver to take possession of and operate the port authority, and to perform the duties required by this chapter and the terms of the resolution authorizing the issuance of the port authority revenue bonds or pledge orders.

2. An action shall not be brought which questions the legality of port authority revenue bonds or pledge orders, the power of a port authority to issue revenue bonds or pledge orders, or the effectiveness of any proceedings relating to the authorization and issuance of revenue bonds or pledge orders, from and after fifteen days from the time the bonds or pledge orders are ordered issued by the port authority.

Sec. 112. NEW SECTION. 28J.24 BONDS ARE PAYABLE SOLELY FROM REVENUES AND FUNDS PLEDGED FOR PAYMENT.

Port authority revenue bonds and pledge orders issued under this chapter do not constitute a debt, or a pledge of the faith and credit, of the state or a political subdivision of the state, and the holders or owners of the bonds or pledge orders shall not have taxes levied by the state or by a taxing authority of a governmental agency of the state for the payment of the principal or interest on the bonds or pledge orders, but the bonds and pledge orders are payable solely from the revenues and funds pledged for their payment as authorized by this chapter, unless the notes are issued in anticipation of the issuance of bonds or pledge orders or the bonds and pledge orders are refunded by refunding bonds issued under this chapter, which bonds, pledge orders, or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by those sections. All of the bonds or pledge orders shall contain a statement to the effect that the bonds or pledge orders, as to both principal and interest, are not debts of the state or a political subdivision of the state, but are payable solely from revenues and funds pledged for their payment.

Sec. 113. NEW SECTION. 28J.25 FUNDS AND PROPERTY HELD IN TRUST -- USE AND DEPOSIT OF FUNDS.

All revenues, funds, properties, and assets acquired by the port authority under this chapter, whether as proceeds from the sale of port authority revenue bonds, pledge orders, or as revenues, shall be held in trust for the purposes of carrying out the port authority's powers and duties, shall be used and reused as provided in this chapter, and shall at no time be part of other public funds. Such funds, except as otherwise provided in a resolution authorizing port authority revenue bonds or in a trust agreement securing the same, or except when invested pursuant to section 28J.26, shall be kept in depositories selected by the port authority in the manner provided in chapter 12C, and the deposits shall be secured as provided in that chapter. The resolution authorizing the issuance of revenue bonds or pledge orders, or the trust agreement securing such bonds or pledge orders shall provide that any officer to whom, or any bank or trust company to which, such moneys are paid shall act as trustee of such moneys and hold and apply them for the purposes hereof, subject to such conditions as this chapter and such resolution or trust agreement provide.

Sec. 114. NEW SECTION. 28J.26 INVESTMENT OF EXCESS FUNDS.

1. If a port authority has surplus funds after making all deposits into all funds required by the terms, covenants, conditions, and provisions of outstanding revenue bonds, pledge orders, and refunding bonds which are payable from the revenues of the port authority and after complying with all of the requirements, terms, covenants, conditions, and provisions of the proceedings and resolutions pursuant to which revenue bonds, pledge orders, and refunding bonds are issued, the board may transfer the surplus funds to any other fund of the port authority in accordance with this chapter and chapter 12C, provided that a transfer shall not be made if it conflicts with any of the requirements, terms, covenants, conditions, or provisions of a resolution authorizing the issuance of revenue bonds, pledge orders, or other obligations which are payable from the revenues of the port authority which are then outstanding.

2. This section does not prohibit or prevent the board from using funds derived from any other source which may be properly used for such purpose, to pay a part of the cost of a facility.

Sec. 115. NEW SECTION. 28J.27 CHANGE IN LOCATION OF PUBLIC WAY, RAILROAD, OR UTILITY FACILITY -- VACATION OF HIGHWAY.

1. When a port authority changes the location of any portion of any public road, railroad, or utility facility in connection with the construction of a port authority facility, the port authority shall reconstruct at such location as the governmental agency having jurisdiction over such road, railroad, or utility facility finds most favorable. The construction of such road, railroad, or utility facility shall be of substantially the same type and in as good condition as the original road, railroad, or utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, railroad, or utility facility shall be paid by the port authority as a part of the cost of the port authority facility.

2. When the port authority finds it necessary that a public highway or portion of a public highway be vacated by reason of the acquisition or construction of a port authority facility, the port authority may request the director of the department of transportation to vacate such highway or portion in accordance with chapter 306 if the highway or portion to be vacated is on the state highway system, or, if the highway or portion to be vacated is under the jurisdiction of a county, the port authority shall petition the board of supervisors of that county, in the manner provided in chapter 306, to vacate such highway or portion. The port authority shall pay to the county, as a part of the cost of such port authority facility, any amounts required to be deposited with a court in connection with proceedings for the determination of compensation and damages and all amounts of compensation and damages finally determined to be payable as a result of such vacation.

3. The port authority may adopt bylaws for the installation, construction, maintenance, repair, renewal, relocation, and removal of railroad or utility facilities in, on, over, or under any port authority facility. Whenever the port authority determines that it is necessary that any such facility installed or constructed in, on, over, or under property of the port authority pursuant to such bylaws be relocated, the utility company owning or operating such facility shall relocate or remove them in accordance with the

order of the port authority. The cost and expenses of such relocation or removal, including the cost of installing such facility in a new location, the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be paid by the port authority as a part of the cost of the port authority facility. In case of any such relocation or removal of such facilities, the railroad or utility company owning or operating them, its successors, or assigns may maintain and operate such facilities, with the necessary appurtenances, in the new location in, on, over, or under the property of the port authority for as long a period and upon the same terms as the railroad or utility company had the right to maintain and operate such facilities in their former location.

Sec. 116. NEW SECTION. 28J.28 FINAL ACTIONS TO BE RECORDED -- ANNUAL REPORT -- CONFIDENTIALITY OF INFORMATION.

1. All final actions of the port authority shall be recorded and the records of the port authority shall be open to public examination and copying pursuant to chapter 22. Not later than the first day of April every year, a port authority shall submit a report to the director of the department of economic development detailing the projects and activities of the port authority during the previous calendar year. The report shall include, but not be limited to, all aspects of those projects and activities, including the progress and status of the projects and their costs, and any other information the director determines should be included in the report.

2. Financial and proprietary information, including trade secrets, submitted to a port authority or the agents of a port authority, in connection with the relocation, location, expansion, improvement, or preservation of a business or nonprofit corporation is not a public record subject to chapter 22. Any other information submitted under those circumstances is not a public record subject to chapter 22 until there is a commitment in writing to proceed with the relocation, location, expansion, improvement, or preservation.

3. Notwithstanding chapter 21, the board of directors of a port authority, when considering information that is not a public record under this section, may close a meeting during the consideration of that information pursuant to a vote of the majority of the directors present on a motion stating that

such information is to be considered. Other matters shall not be considered during the closed session.

Sec. 117. NEW SECTION. 28J.29 PROVISIONS TO BE LIBERALLY CONSTRUED.

This chapter shall be liberally construed to effect the chapter's purposes.

Sec. 118. Section 427.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 34. PORT AUTHORITY PROPERTY. The property of a port authority created pursuant to section 28J.2, when devoted to public use and not held for pecuniary profit.

DIVISION XVI
PROPERTY ASSESSMENT

Sec. 119. Section 7E.6, subsection 5, Code 2005, is amended to read as follows:

5. Any position of membership on the board of parole, the public employment relations board, the utilities board, and the employment appeal board, and the property assessment appeal board shall be compensated as otherwise provided in law.

Sec. 120. Section 13.7, Code 2005, is amended to read as follows:

13.7 SPECIAL COUNSEL.

Compensation shall not be allowed to any person for services as an attorney or counselor to an executive department of the state government, or the head thereof, or to a state board or commission. However, the executive council may employ legal assistance, at a reasonable compensation, in a pending action or proceeding to protect the interests of the state, but only upon a sufficient showing, in writing, made by the attorney general, that the department of justice cannot for reasons stated by the attorney general perform the service, which reasons and action of the council shall be entered upon its records. When the attorney general determines that the department of justice cannot perform legal service in an action or proceeding, the executive council shall request the department involved in the action or proceeding to recommend legal counsel to represent the department. If the attorney general concurs with the department that the person recommended is qualified and suitable to represent the department, the person recommended

shall be employed. If the attorney general does not concur in the recommendation, the department shall submit a new recommendation. This section does not affect the general counsel for the utilities board of the department of commerce, ~~or~~ the legal counsel of the department of workforce development, or the general counsel for the property assessment appeal board.

Sec. 121. NEW SECTION. 421.1A PROPERTY ASSESSMENT APPEAL BOARD.

1. A statewide property assessment appeal board is created for the purpose of establishing a consistent, fair, and equitable property assessment appeal process. The statewide property assessment appeal board is established within the department of revenue for administrative and budgetary purposes. The board's principal office shall be in the office of the department of revenue in the capital of the state.

2. a. The property assessment appeal board shall consist of three members appointed to staggered six-year terms, beginning and ending as provided in section 69.19, by the governor and subject to confirmation by the senate. Subject to confirmation by the senate, the governor shall appoint from the members a chairperson of the board to a two-year term. Vacancies on the board shall be filled for the unexpired portion of the term in the same manner as regular appointments are made. The term of office for the initial board shall begin January 1, 2007.

b. Each member of the property assessment appeal board shall be qualified by virtue of at least two years' experience in the area of government, corporate, or private practice relating to property appraisal and property tax administration. One member of the board shall be a certified real estate appraiser or hold a professional appraisal designation, one member shall be an attorney practicing in the area of state and local taxation or property tax appraisals, and one member shall be a professional with experience in the field of accounting or finance and with experience in state and local taxation matters. No more than two members of the board may be from the same political party as that term is defined in section 43.2.

c. The property assessment appeal board shall organize by appointing a secretary who shall take the same oath of office as the members of the board. The board may employ additional

personnel as it finds necessary. All personnel employed by the board shall be considered state employees and are subject to the merit system provisions of chapter 8A, subchapter IV.

3. At the election of a property owner or aggrieved taxpayer or an appellant described in section 441.42, the property assessment appeal board shall review any final decision, finding, ruling, determination, or order of a local board of review relating to protests of an assessment, valuation, or application of an equalization order.

4. The property assessment appeal board may do all of the following:

a. Affirm, reverse, or modify a final decision, finding, ruling, determination, or order of a local board of review.

b. Order the payment or refund of property taxes in a matter over which the board has jurisdiction.

c. Grant other relief or issue writs, orders, or directives that the board deems necessary or appropriate in the process of disposing of a matter over which the board has jurisdiction.

d. Subpoena documents and witnesses and administer oaths.

e. Adopt administrative rules pursuant to chapter 17A for the administration and implementation of its powers, including rules for practice and procedure for protests filed with the board, the manner in which hearings on appeals of assessments shall be conducted, filing fees to be imposed by the board, and for the determination of the correct assessment of property which is the subject of an appeal.

f. Adopt administrative rules pursuant to chapter 17A necessary for the preservation of order and the regulation of proceedings before the board, including forms or notice and the service thereof, which rules shall conform as nearly as possible to those in use in the courts of this state.

5. The property assessment appeal board shall employ a competent attorney to serve as its general counsel, and assistants to the general counsel as it finds necessary for the full and efficient discharge of its duties. The general counsel is the attorney for, and legal advisor of, the board. The general counsel or an assistant to the general counsel shall provide the necessary legal advice to the board in all matters and shall represent the board in all actions instituted in a court challenging the validity of a rule or order of the board. The general counsel shall devote full

time to the duties of the office. During employment as general counsel to the board, the counsel shall not be a member of a political committee, contribute to a political campaign, participate in a political campaign, or be a candidate for partisan political office. The general counsel and assistants to the general counsel shall be considered state employees and are subject to the merit system provisions of chapter 8A, subchapter IV.

6. The members of the property assessment appeal board shall receive compensation from the state commensurate with the salary of a district judge. The members of the board shall not be considered state employees for purposes of salary and benefits. The members of the board and any employees of the board, when required to travel in the discharge of official duties, shall be paid their actual and necessary expenses incurred in the performance of duties.

7. a. Effective January 1, 2012, a property assessment appeal board review committee is established. Staffing assistance to the committee shall be provided by the department of revenue. The committee shall consist of six members of the general assembly, two appointed by the majority leader of the senate, one appointed by the minority leader of the senate, two appointed by the speaker of the house of representatives, and one appointed by the minority leader of the house of representatives; the director of revenue or the director's designee; a county assessor appointed by the Iowa state association of counties; and a city assessor appointed by the Iowa league of cities.

b. The property assessment appeal board review committee shall review the activities of the property assessment appeal board since its inception. The review committee may recommend the revision of any rules, regulations, directives, or forms relating to the activities of the property assessment appeal board.

c. The review committee shall report to the general assembly by January 15, 2013. The report shall include any recommended changes in laws relating to the property assessment appeal board, the reasons for the committee's recommendations, and any other information the committee deems advisable.

Sec. 122. Section 428.4, unnumbered paragraph 1, Code 2005, is amended to read as follows:

Property shall be assessed for taxation each year. Real estate shall be listed and assessed in 1981 and every two years thereafter. The assessment of real estate shall be the value of the real estate as of January 1 of the year of the assessment. The year 1981 and each odd-numbered year thereafter shall be a reassessment year. In any year, after the year in which an assessment has been made of all the real estate in an assessing jurisdiction, the assessor shall value and assess or revalue and reassess, as the case may require, any real estate that the assessor finds was incorrectly valued or assessed, or was not listed, valued, and assessed, in the assessment year immediately preceding, also any real estate the assessor finds has changed in value subsequent to January 1 of the preceding real estate assessment year. However, a percentage increase on a class of property shall not be made in a year not subject to an equalization order unless ordered by the department of revenue. The assessor shall determine the actual value and compute the taxable value thereof as of January 1 of the year of the revaluation and reassessment. The assessment shall be completed as specified in section 441.28, but no reduction or increase in actual value shall be made for prior years. If an assessor makes a change in the valuation of the real estate as provided for, sections 441.23, 441.37, 441.37A, 441.38 and 441.39 apply.

Sec. 123. Section 441.19, subsection 4, Code 2005, is amended to read as follows:

4. The supplemental returns ~~herein~~ provided for in this section shall be preserved in the same manner as assessment rolls, but shall be confidential to the assessor, board of review, property assessment appeal board, or director of revenue, and shall not be open to public inspection, but any final assessment roll as made out by the assessor shall be a public record, provided that such supplemental return shall be available to counsel of either the person making the return or of the public, in case any appeal is taken to the board of review, to the property assessment appeal board, or to the court.

Sec. 124. Section 441.21, subsection 1, Code 2005, is amended by adding the following new paragraphs:

NEW PARAGRAPH. h. The assessor shall determine the value of real property in accordance with rules adopted by the department of revenue and in accordance with forms and

guidelines contained in the real property appraisal manual prepared by the department as updated from time to time. Such rules, forms, and guidelines shall not be inconsistent with or change the means, as provided in this section, of determining the actual, market, taxable, and assessed values.

NEW PARAGRAPH. i. If the department finds that a city or county assessor is not in compliance with the rules of the department relating to valuation of property or has disregarded the forms and guidelines contained in the real property appraisal manual, the department shall notify the assessor and each member of the conference board for the appropriate assessing jurisdiction. The notice shall be mailed by restricted certified mail. The notice shall specify the areas of noncompliance and the steps necessary to achieve compliance. The notice shall also inform the assessor and conference board that if compliance is not achieved, a penalty may be imposed.

The conference board shall respond to the department within thirty days of receipt of the notice of noncompliance. The conference board may respond to the notice by asserting that the assessor is in compliance with the rules, guidelines, and forms of the department or by informing the department that the conference board intends to submit a plan of action to achieve compliance. If the conference board responds to the notification by asserting that the assessor is in compliance, a hearing before the director of revenue shall be scheduled on the matter.

A plan of action shall be submitted within sixty days of receipt of the notice of noncompliance. The plan shall contain a time frame under which compliance shall be achieved which shall be no later than January 1 of the following assessment year. The plan of action shall contain the signature of the assessor and of the chairperson of the conference board. The department shall review the plan to determine whether the plan is sufficient to achieve compliance. Within thirty days of receipt of the plan, the department shall notify the assessor and the chairperson of the conference board that it has accepted the plan or that it is necessary to submit an amended plan of action.

By January 1 of the assessment year following the calendar year in which the plan was submitted to the department, the conference board shall submit a report to the department

indicating that the plan of action was followed and compliance has been achieved. The department may conduct a field inspection to ensure that the assessor is in compliance. By January 31, the department shall notify the assessor and the conference board, by restricted certified mail, either that compliance has been achieved or that the assessor remains in noncompliance. If the department determines that the assessor remains in noncompliance, the department shall take steps to withhold up to five percent of the reimbursement payment authorized in section 425.1 until the director of revenue determines that the assessor is in compliance.

If the conference board disputes the determination of the department, the chairperson of the conference board may appeal the determination to the state board of tax review.

The department shall adopt rules relating to the administration of this paragraph "i".

Sec. 125. Section 441.21, subsection 2, Code 2005, is amended to read as follows:

2. In the event market value of the property being assessed cannot be readily established in the foregoing manner, then the assessor may determine the value of the property using the other uniform and recognized appraisal methods including its productive and earning capacity, if any, industrial conditions, its cost, physical and functional depreciation and obsolescence and replacement cost, and all other factors which would assist in determining the fair and reasonable market value of the property but the actual value shall not be determined by use of only one such factor. The following shall not be taken into consideration: Special value or use value of the property to its present owner, and the good will or value of a business which uses the property as distinguished from the value of the property as property. However, in assessing property that is rented or leased to low-income individuals and families as authorized by section 42 of the Internal Revenue Code, as amended, and which section limits the amount that the individual or family pays for the rental or lease of units in the property, the assessor shall use the productive and earning capacity from the actual rents received as a method of appraisal and shall take into account the extent to which that use and limitation reduces the market value of the property. The assessor shall not consider any tax credit equity or other subsidized financing as income

provided to the property in determining the assessed value. The property owner shall notify the assessor when property is withdrawn from section 42 eligibility under the Internal Revenue Code. The property shall not be subject to section 42 assessment procedures for the assessment year for which section 42 eligibility is withdrawn. This notification must be provided to the assessor no later than March 1 of the assessment year or the owner will be subject to a penalty of five hundred dollars for that assessment year. The penalty shall be collected at the same time and in the same manner as regular property taxes. Upon adoption of uniform rules by the revenue department of revenue or succeeding authority covering assessments and valuations of such properties, ~~said the~~ valuation on such properties shall be determined in accordance ~~therewith~~ with such rules and in accordance with forms and guidelines contained in the real property appraisal manual prepared by the department as updated from time to time for assessment purposes to assure uniformity, but such rules, forms, and guidelines shall not be inconsistent with or change the foregoing means of determining the actual, market, taxable and assessed values.

Sec. 126. Section 441.28, Code 2005, is amended to read as follows:

441.28 ASSESSMENT ROLLS -- CHANGE -- NOTICE TO TAXPAYER.

The assessment shall be completed not later than April 15 each year. If the assessor makes any change in an assessment after it has been entered on the assessor's rolls, the assessor shall note on ~~said the~~ roll, together with the original assessment, the new assessment and the reason for the change, together with the assessor's signature and the date of the change. Provided, however, in the event the assessor increases any assessment the assessor shall give notice of the increase in writing ~~thereof~~ to the taxpayer by mail ~~prior to the meeting of the board of review~~ postmarked no later than April 15. No changes shall be made on the assessment rolls after April 15 except by order of the board of review or of the property assessment appeal board, or by decree of court.

Sec. 127. Section 441.35, unnumbered paragraph 2, Code 2005, is amended to read as follows:

In any year after the year in which an assessment has been made of all of the real estate in any taxing district, it ~~shall be the duty of~~ the board of review ~~to~~ shall meet as

provided in section 441.33, and where ~~it~~ the board finds the same has changed in value, ~~to~~ the board shall revalue and reassess any part or all of the real estate contained in such taxing district, and in such case, ~~it~~ the board shall determine the actual value as of January 1 of the year of the revaluation and reassessment and compute the taxable value thereof~~7-and-any.~~ Any aggrieved taxpayer may petition for a revaluation of the taxpayer's property, but no reduction or increase shall be made for prior years. If the assessment of any such property is raised, or any property is added to the tax list by the board, the clerk shall give notice in the manner provided in section 441.36~~7-provided7-however7-that.~~ However, if the assessment of all property in any taxing district is raised, the board may instruct the clerk to give immediate notice by one publication in one of the official newspapers located in the taxing district, and such published notice shall take the place of the mailed notice provided for in section 441.36, but all other provisions of ~~said~~ that section shall apply. The decision of the board as to the foregoing matters shall be subject to appeal to the property assessment appeal board within the same time and in the same manner as provided in section 441.37A and to the district court within the same time and in the same manner as provided in section 441.38.

Sec. 128. NEW SECTION. 441.37A APPEAL OF PROTEST TO PROPERTY ASSESSMENT APPEAL BOARD.

1. For the assessment year beginning January 1, 2007, and all subsequent assessment years, appeals may be taken from the action of the board of review with reference to protests of assessment, valuation, or application of an equalization order to the property assessment appeal board created in section 421.1A. However, a property owner or aggrieved taxpayer or an appellant described in section 441.42 may bypass the property assessment appeal board and appeal the decision of the local board of review to the district court pursuant to section 441.38. For an appeal to the property assessment appeal board to be valid, written notice must be filed by the party appealing the decision with the secretary of the property assessment appeal board within twenty days after the date the board of review's letter of disposition of the appeal is postmarked to the party making the protest. The written notice of appeal shall include a petition setting forth the

basis of the appeal and the relief sought. No new grounds in addition to those set out in the protest to the local board of review as provided in section 441.37 can be pleaded, but additional evidence to sustain those grounds may be introduced. The assessor shall have the same right to appeal to the assessment appeal board as an individual taxpayer, public body, or other public officer as provided in section 441.42.

Filing of the written notice of appeal and petition with the secretary of the property assessment appeal board shall preserve all rights of appeal of the appellant, except as otherwise provided in subsection 2. A copy of the appellant's written notice of appeal and petition shall be mailed by the secretary of the property assessment appeal board to the local board of review whose decision is being appealed. In all cases where a change in assessed valuation of one hundred thousand dollars or more is petitioned for, the local board of review shall mail a copy of the written notice of appeal and petition to all affected taxing districts as shown on the last available tax list.

2. A party to the appeal may request a hearing or the appeal may proceed without a hearing. If a hearing is requested, the appellant and the local board of review from which the appeal is taken shall be given at least thirty days' written notice by the property assessment appeal board of the date the appeal shall be heard and the local board of review may be present and participate at such hearing. Notice to all affected taxing districts shall be deemed to have been given when written notice is provided to the local board of review. Failure by the appellant to appear at the property assessment appeal board hearing shall be grounds for dismissal of the appeal unless a continuance is granted to the appellant. If an appeal is dismissed for failure to appear, the property assessment appeal board shall have no jurisdiction to consider any subsequent appeal on the appellant's protest.

An appeal may be considered by less than a majority of the members of the board, and the chairperson of the board may assign members to consider appeals. If a hearing is requested, it shall be open to the public and shall be conducted in accordance with the rules of practice and procedure adopted by the board. However, any deliberation of a board member considering the appeal in reaching a decision

on any appeal shall be confidential. The property assessment appeal board or any member of the board may require the production of any books, records, papers, or documents as evidence in any matter pending before the board that may be material, relevant, or necessary for the making of a just decision. Any books, records, papers, or documents produced as evidence shall become part of the record of the appeal. Any testimony given relating to the appeal shall be transcribed and made a part of the record of the appeal.

3. a. The board member considering the appeal shall determine anew all questions arising before the local board of review which relate to the liability of the property to assessment or the amount thereof. All of the evidence shall be considered and there shall be no presumption as to the correctness of the valuation of assessment appealed from. The property assessment appeal board shall make a decision in each appeal filed with the board. If the appeal is considered by less than a majority of the board, the determination made by that member shall be forwarded to the full board for approval, rejection, or modification. If the initial determination is rejected by the board, it shall be returned for reconsideration to the board member making the initial determination. Any deliberation of the board regarding an initial determination shall be confidential.

b. The decision of the board shall be considered the final agency action for purposes of further appeal, except as otherwise provided in section 441.49. The decision shall be final unless appealed to district court as provided in section 441.38. The levy of taxes on any assessment appealed to the board shall not be delayed by any proceeding before the board, and if the assessment appealed from is reduced by the decision of the board, any taxes levied upon that portion of the assessment reduced shall be abated or, if already paid, shall be refunded. If the subject of an appeal is the application of an equalization order, the property assessment appeal board shall not order a reduction in assessment greater than the amount that the assessment was increased due to application of the equalization order. Each party to the appeal shall be responsible for the costs of the appeal incurred by that party.

Sec. 129. Section 441.38, Code 2005, is amended to read as follows:

441.38 APPEAL TO DISTRICT COURT.

1. Appeals may be taken from the action of the local board of review with reference to protests of assessment, to the district court of the county in which the board holds its sessions within twenty days after its adjournment or May 31, whichever date is later. Appeals may be taken from the action of the property assessment appeal board to the district court of the county where the property which is the subject of the appeal is located within twenty days after the letter of disposition of the appeal by the property assessment appeal board is postmarked to the appellant. No new grounds in addition to those set out in the protest to the local board of review as provided in section 441.37, or in addition to those set out in the appeal to the property assessment appeal board, if applicable, can be pleaded, but additional evidence to sustain those grounds may be introduced. The assessor shall have the same right to appeal and in the same manner as an individual taxpayer, public body or other public officer as provided in section 441.42. Appeals shall be taken by filing a written notice of appeal with the clerk of district court. Filing of the written notice of appeal shall preserve all rights of appeal of the appellant.

2. Notice of appeal shall be served as an original notice on the chairperson, presiding officer, or clerk of the board of review, and on the secretary of the property assessment appeal board, if applicable, after the filing of notice under subsection 1 with the clerk of district court.

Sec. 130. Section 441.39, Code 2005, is amended to read as follows:

441.39 TRIAL ON APPEAL.

The If the appeal is from a decision of the local board of review, the court shall hear the appeal in equity and determine anew all questions arising before the board which relate to the liability of the property to assessment or the amount thereof. The court shall consider all of the evidence and there shall be no presumption as to the correctness of the valuation of assessment appealed from. If the appeal is from a decision of the property assessment appeal board, the court's review shall be limited to the correction of errors at law. Its decision shall be certified by the clerk of the court to the county auditor, and the assessor, who shall correct the assessment books accordingly.

Sec. 131. Section 441.43, Code 2005, is amended to read as follows:

441.43 POWER OF COURT.

Upon trial of any appeal from the action of the board of review or of the property assessment appeal board fixing the amount of assessment upon any property concerning which complaint is made, the court may increase, decrease, or affirm the amount of the assessment appealed from.

Sec. 132. Section 441.49, unnumbered paragraph 5, Code 2005, is amended to read as follows:

The local board of review shall reconvene in special session from October 15 to November 15 for the purpose of hearing the protests of affected property owners or taxpayers within the jurisdiction of the board whose valuation of property if adjusted pursuant to the equalization order issued by the director of revenue will result in a greater value than permitted under section 441.21. The board of review shall accept protests only during the first ten days following the date the local board of review reconvenes. The board of review shall limit its review to only the timely filed protests. The board of review may adjust all or a part of the percentage increase ordered by the director of revenue by adjusting the actual value of the property under protest to one hundred percent of actual value. Any adjustment so determined by the board of review shall not exceed the percentage increase provided for in the director's equalization order. The determination of the board of review on filed protests is final, subject to appeal to the property assessment appeal board. A final decision by the local board of review, or the property assessment appeal board, if the local board's decision is appealed, is subject to review by the director of revenue for the purpose of determining whether the board's actions substantially altered the equalization order. In making the review, the director has all the powers provided in chapter 421, and in exercising the powers the director is not subject to chapter 17A. Not later than fifteen days following the adjournment of the board, the board of review shall submit to the director of revenue, on forms prescribed by the director, a report of all actions taken by the board of review during this session.

Sec. 133. Section 445.60, Code 2005, is amended to read as follows:

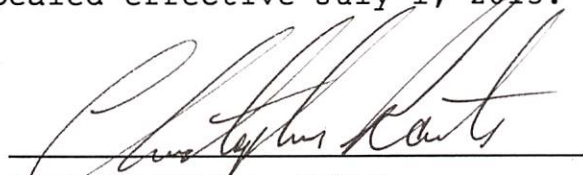
445.60 REFUNDING ERRONEOUS TAX.

The board of supervisors shall direct the county treasurer to refund to the taxpayer any tax or portion of a tax found to have been erroneously or illegally paid, with all interest, fees, and costs actually paid. A refund shall not be ordered or made unless a claim for refund is presented to the board within two years of the date the tax was due, or if appealed to the board of review, the property assessment appeal board, the state board of tax review, or district court, within two years of the final decision.

Sec. 134. FUTURE REPEAL.

1. The sections of this division of this Act amending sections 7E.6, 13.7, 428.4, 441.19, 441.35, 441.38, 441.39, 441.43, 441.49, and 445.60, and enacting sections 421.1A and 441.37A, are repealed effective July 1, 2013.

2. The portion of the section of this division of this Act amending section 441.28 relating only to the property assessment appeal board is repealed effective July 1, 2013.

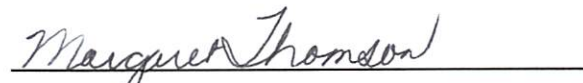


CHRISTOPHER C. RANTS
Speaker of the House



JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 868, Eighty-first General Assembly.



MARGARET THOMSON
Chief Clerk of the House

Approved June 9, 2005



THOMAS J. VILSACK
Governor