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SENATE FILE 2415
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO SSB 2214)

(P. 1005)
Passed Senate, Date 4-1-98 Passed House, Date 4-17-98
Vote: Ayes 47 Nays 2 Vote: Ayes 72 Nays 27
Approved May 20, 1998

A BILL FOR

1 An Act relating to agricultural finance and providing an
2 appropriation and taxation exemption, and providing an
3 effective date.

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

SENATE FILE 2415

7 S-5462

8 1 Amend Senate File 2415 as follows:

9 2 1. Page 16, by inserting after line 21 the
3 following:

10 4 "2A. In order to receive financing, a corporation
11 5 must meet all of the requirements specified in section
12 6 15.329, subsections 1 and 2, except for the
13 7 requirements provided in subsection 1, paragraphs "e"
14 8 and "f", of that section, and in subsection 2,
9 paragraphs "b" and "c", of that section."

By MATT McCOY

15 S-5462 FILED APRIL 1, 1998

16 LOST

17 (P. 1002)

S.F. 2415

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1 Section 1. LEGISLATIVE FINDINGS. The general assembly
2 finds and declares all of the following:

3 1. a. The economic structure of agriculture, including
4 the production of agricultural commodities and the processing
5 and marketing of agricultural products, is undergoing a period
6 of rapid transformation.

7 (1) Longstanding government programs supporting prices for
8 agricultural commodities are being phased out, and new
9 technologies and management arrangements are creating large
10 scale integrated systems for producing and processing
11 agricultural commodities, and marketing agricultural processed
12 products.

13 (2) An increasing world demand exists for high quality
14 agricultural products caused by the simultaneous reduction of
15 trade barriers among nations and an increase in income of
16 those nations' populations.

17 b. The ability of this state and its agricultural
18 producers to adapt to these forces and their consequences at
19 the threshold of the twenty-first century will determine the
20 degree to which this state will prosper.

21 2. a. A need exists for additional sources of financing
22 for local agricultural producer-led ventures to expand
23 production, processing, and marketing of high value
24 agricultural products, to organize new business structures
25 within the state to carry out these ventures, and to market
26 and deliver increasingly high value agricultural products to
27 consumers around the world.

28 b. Traditional channels of financing and business
29 organization have not been adequate to address this need.

30 c. A trend toward corporate vertical integration in the
31 production, processing, and marketing of agricultural products
32 exists which requires agricultural producers to develop
33 innovative cooperative ventures in order to successfully
34 compete in a changing marketplace.

35 3. It is necessary for the state to authorize the

1 formation of private corporations in order to provide sources
2 of investment capital to encourage agricultural producer-led
3 ventures, including providing limited state financial support
4 necessary to stimulate these ventures.

5 4. All of the purposes stated in this Act are public
6 purposes. All of the following is necessary in order to
7 satisfy the intent and promote the purposes of this Act:

8 a. The authorization of the formation of Iowa agricultural
9 industry finance corporations as provided in this Act,
10 including authorizing persons to facilitate the formation of a
11 private corporation.

12 b. The use of public moneys to support activities
13 identified in this Act, including funding Iowa agricultural
14 industry finance corporations, making available loans to
15 initiate ventures as provided in this Act, and providing
16 incentives included in this Act for qualified Iowa
17 agricultural industry financing corporations.

18 DIVISION XIX

19 IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATIONS

20 Sec. 2. NEW SECTION. 15E.201 SHORT TITLE.

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

23 Sec. 3. NEW SECTION. 15E.202 DEFINITIONS.

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

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

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

34 b. Regularly and frequently make or take an important part
35 in making management decisions substantially contributing to

1 or affecting the success of the agricultural operation.

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

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

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

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

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

17 a. An individual actively engaged in agricultural
18 production.

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

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

24 (2) A family farm corporation as defined in section 9H.1,
25 if a shareholder and an officer, director, or employee of the
26 corporation is actively engaged in agricultural production.

27 (3) A family farm limited liability company as defined in
28 section 9H.1, if a member or manager of the family farm
29 limited liability company is actively engaged in agricultural
30 production.

31 (4) A family farm limited partnership as defined in
32 section 9H.1, if a general partner is actively engaged in
33 agricultural production.

34 (5) A family trust as defined in section 9H.1, if a
35 beneficiary is actively engaged in agricultural production.

1 6. "Agricultural product" means an agricultural commodity
2 or an agricultural processed product.

3 7. "Certified facility" means a facility used to process
4 agricultural products as certified by a corporation pursuant
5 to section 15E.210.

6 8. "Department" means the department of economic
7 development as created in section 15.101.

8 9. "Economic development board" means the economic
9 development board created pursuant to section 15.103.

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

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

15 12. "Iowa agricultural industry venture" means an
16 enterprise involving agricultural producers investing in a new
17 facility or acquiring or expanding an existing facility in
18 this state which is used to process agricultural commodities
19 produced in this state, if the purpose of the enterprise is to
20 accomplish all of the following:

21 a. The creation and retention of wealth in this state
22 derived from processing and marketing agricultural commodities
23 produced in this state.

24 b. Increasing production, processing, and marketing of
25 value-added agricultural products in this state.

26 c. Providing for a substantial equitable ownership
27 interest in the enterprise by Iowa agricultural producers.

28 d. Providing an alternative in this state to corporate
29 vertical integration in the production, processing, and
30 marketing of agricultural products.

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

35 14. "Qualified investor" means any of the following

- 1 a. An agricultural producer.
- 2 b. A cooperative corporation organized under chapter 501.
- 3 c. A networking farmers entity as defined in section 10.1.
- 4 15. "Qualified Iowa agricultural industry finance
- 5 corporation" or "qualified corporation" means an Iowa
- 6 agricultural industry financing corporation which meets the
- 7 eligibility requirements of and is approved by the department
- 8 pursuant to section 15E.208.

9 Sec. 4. NEW SECTION. 15E.203 FINDINGS -- INTENT AND
10 PURPOSES.

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

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

- 26 a. That the majority of the wealth created by Iowa
- 27 agricultural productivity is retained in this state.
- 28 b. That employment in the production, processing, and
- 29 marketing of agricultural products, and especially
- 30 agricultural processed products, is increased in this state.
- 31 c. That agricultural producers in this state are provided
- 32 with an opportunity to acquire a majority ownership interest
- 33 in Iowa agricultural industry ventures promoted under this
- 34 division.
- 35 d. That this state becomes a world model for agricultural

1 producer-based vertical cooperation which depends upon broadly
2 shared access to information, capital, and cooperative action.

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

7 Sec. 5. NEW SECTION. 15E.204 IOWA AGRICULTURAL INDUSTRY
8 FINANCE CORPORATIONS -- SCOPE OF POWERS AND DUTIES.

9 1. An Iowa agricultural industry finance corporation
10 formed under this division shall be subject to and have the
11 powers and privileges conferred by provisions of chapter 490,
12 unless otherwise limited by or inconsistent with the
13 provisions of this division.

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

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

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

23 c. That a corporation is restricted from holding,
24 acquiring, or transferring financial or security instruments,
25 including but not limited to a security regulated under
26 chapter 502, money, accounts, and chattel paper under chapter
27 554, security interests under chapter 554, or a mortgage or
28 deed of trust under chapter 654.

29 3. An Iowa agricultural industry finance corporation is a
30 private business corporation and not a public corporation or
31 instrumentality of the state. Except as provided in this
32 division, nothing in this division exempts an Iowa
33 agricultural industry finance corporation from the same
34 requirements under state law which apply to other corporations
35 organized under chapter 490, including taxation provisions

1 under chapter 422 or Title X, subtitle 2 of this Code, or
2 security regulations under chapter 502.

3 Sec. 6. NEW SECTION. 15E.205 IOWA AGRICULTURAL INDUSTRY
4 FINANCE CORPORATIONS -- REQUIREMENTS.

5 1. A corporation incorporated under chapter 490 is an Iowa
6 agricultural industry finance corporation, if the corporation
7 complies with the requirements of this section and section
8 15E.206. In addition to the other requirements for a
9 corporation organized under chapter 490, all of the following
10 shall apply:

11 a. At least fifty-one percent of the corporation's common
12 stock must be held by agricultural producers. At least fifty-
13 one percent of the corporation's voting stock must be held by
14 agricultural producers.

15 b. The purpose of the corporation must be limited to
16 providing financing to eligible persons under section 15E.210
17 who are engaging in Iowa agricultural industry ventures
18 limited to establishing a business structure in which
19 agricultural producers produce agricultural commodities for
20 processing and marketing as agricultural processed products.

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

23 Sec. 7. NEW SECTION. 15E.206 FORMATION OF AN IOWA
24 AGRICULTURAL INDUSTRY FINANCE CORPORATION.

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

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

1 a. The chairperson of the economic development board or a
2 designee of the chairperson.

3 b. The director of the department of economic development,
4 or a designee of the director.

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

7 3. After incorporation, such a corporation shall be
8 organized by an initial board of directors as provided in
9 chapter 490, division II. The initial board of directors
10 shall be elected as follows:

11 a. An interim board of directors for the corporation,
12 composed of the members of the economic development board,
13 shall appoint a nominating committee. The members of the
14 nominating committee shall include persons who have an
15 expertise in areas of banking, agricultural lending, business
16 development, agricultural production and processing, seed and
17 venture capital investment, and other areas of expertise as
18 deemed appropriate by the interim board of directors.

19 b. Members of the interim board of directors and members
20 of the nominating committee shall hold a joint meeting to
21 elect five initial board directors from the list of candidates
22 nominated by the nominating committee.

23 c. Upon the election of the initial board of directors,
24 the terms of the interim board of directors and the nominating
25 committee shall expire.

26 4. The department shall assist the incorporators, the
27 interim board of directors, and the nominating committee in
28 any manner determined necessary and appropriate by the
29 economic development board and the director of the department
30 in order to administer this section.

31 Sec. 8. NEW SECTION. 15E.207 IOWA AGRICULTURAL INDUSTRY
32 FINANCE CORPORATIONS -- GUIDING PRINCIPLES.

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

1 1. The corporation must exercise diligence and care in the
2 selection of persons and projects to receive financing as
3 provided in section 15E.210. The corporation must apply
4 customary and acceptable business and lending standards and
5 practices in selecting persons and projects designated for
6 financing and managing agreements under which financing is
7 provided.

8 2. Except as otherwise provided in this section, the
9 corporation shall not become an owner of real or depreciable
10 property, including agricultural land, as provided in section
11 9H.4. However, this subsection shall not preclude the
12 corporation from holding an interest in real or depreciable
13 property if any of the following apply:

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

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

20 (1) The interest is a bona fide encumbrance taken for
21 purposes of security in connection with providing financing
22 under section 15E.210.

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

25 (a) Devise or bequest.

26 (b) Court order.

27 (c) Dissolution under chapter 490, division XIV.

28 (d) Order in bankruptcy.

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

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

4 Sec. 9. NEW SECTION. 15E.208 QUALIFIED CORPORATIONS --
5 IOWA AGRICULTURAL INDUSTRY FINANCE LOANS.

6 1. The department may award an Iowa agricultural industry
7 finance loan to an Iowa agricultural industry finance
8 corporation, if the department in its discretion determines
9 that the corporation is qualified under this section.

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

13 3. The department may loan all or part of the amounts
14 available to the department pursuant to this division to a
15 qualified corporation with provisions and restrictions as
16 determined by the department and contained in a loan agreement
17 executed between the department and the qualified corporation.

18 a. The department may attach conditions to the granting of
19 the loan as it deems desirable. The attorney general shall
20 assist the department in drafting loan agreements and in
21 collecting on the loan agreement.

22 b. The loan shall be repayable upon terms and conditions
23 negotiated by the parties. The repayment period shall begin
24 six years following the date when the loan is awarded and end
25 twenty-five years after the date that the repayment period
26 begins. At least four percent of the amount due shall be paid
27 each year to the department. The corporation shall not be
28 subject to a prepayment penalty.

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

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

33 (1) The agricultural producer is a party to a pending
34 action for a violation of chapter 455B concerning a
35 confinement feeding operation in which the person has a

1 controlling interest and the action is commenced in district
2 court by the attorney general.

3 (2) The agricultural producer or a confinement feeding
4 operation in which the agricultural producer holds a
5 controlling interest is classified as a habitual violator
6 under section 455B.191.

7 b. An agricultural products processor, if the processor or
8 a person owning a controlling interest in the processor has
9 demonstrated, within the most recent consecutive three-year
10 period prior to the application for financing, a continuous
11 and flagrant disregard for the health and safety of its
12 employees or the quality of the environment. Violations of
13 environmental protection statutes, rules, or regulations shall
14 be reported for the most recent five-year period prior to
15 application. Evidence of such disregard shall include a
16 history of serious or uncorrected violations of state or
17 federal law protecting occupational health and safety or the
18 environment, including but not limited to serious or
19 uncorrected violations of occupational safety and health
20 standards enforced by the division of labor services of the
21 department of employment services pursuant to chapter 84A, or
22 rules enforced by the environmental protection division of the
23 department of natural resources pursuant to chapter 455B.

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

27 a. The corporation must only provide financing to persons
28 and ventures eligible under section 15E.210.

29 b. The corporation must demonstrate that it complies with
30 guiding principles for the corporation as provided in section
31 15E.207.

32 c. The corporation must adopt policies and procedures
33 which maximize public oversight into the affairs of the
34 corporation, by providing a forum for public comment, an
35 opportunity for public review of the corporation's actions,

1 and methods to ensure accountability for the expenditure of
2 public moneys loaned to the corporation.

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

8 (1) The capitalization of the corporation.

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

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

18 (4) The manner of oversight required by the department or
19 the auditor of state. The articles must provide that the
20 corporation shall submit a report to the governor, the general
21 assembly, and the department. The report shall provide a
22 description of the corporation's activities and a summary of
23 its finances, including financial awards. The report shall be
24 submitted not later than January 10 of each year. The
25 articles shall provide for an annual audit by the auditor of
26 state or a certified public accountant licensed pursuant to
27 chapter 542C. A summary of the audit shall be included in the
28 report.

29 (5) The execution of an agreement between the corporation
30 and an eligible recipient as required by the department as a
31 condition of providing financing, in which the eligible
32 recipient agrees to become a shareholder in the corporation.
33 The agreement shall be for a period of not less than ten
34 years. An agreement shall at least provide all of the
35 following:

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

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

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

11 e. A portfolio which is diversified among all types of
12 agricultural commodities must be maintained.

13 f. The corporation may only be terminated by the following
14 methods, unless approved by the department:

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

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

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

26 The corporation may deviate from a requirement in this
27 subsection, upon the affirmative vote of a majority of the
28 corporation's board of directors, and approval of the
29 department based on the department's determination that the
30 activity furthers the interest of Iowa agricultural producers
31 to process their own agricultural products and the approval by
32 the board of directors is integral to accomplishing the
33 purposes of the corporation.

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

1 a. Violates a provision of the articles of incorporation
2 or an amendment to the articles of incorporation that is
3 required by this division which violation is not approved by
4 the department.

5 b. Violates the terms of the loan agreement executed
6 between the department and the corporation, which violation is
7 not approved by the department.

8 c. Fails to comply with the requirements of section
9 15E.205.

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

11 (1) The transaction involves any of the following:

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

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

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

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

27 8. Moneys repaid or collected by the department under this
28 section shall be deposited into the general fund of the state.

29 Sec. 10. NEW SECTION. 15E.209 TAXATION EXEMPTION.

30 Dividends received by the shareholders of a qualified Iowa
31 agricultural industry finance corporation shall be exempt from
32 Iowa income tax under chapter 422, if more than fifty percent
33 of the equity of the corporation is attributable to an Iowa
34 agricultural industry finance loan as provided in section
35 15E.208.

1 Sec. 11. NEW SECTION. 15E.210 FINANCING PROVIDED BY AN
2 IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATION.

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

8 a. An agricultural producer under all of the following
9 conditions:

10 (1) The agricultural producer must be a resident of this
11 state at the time the financing is provided. If the person is
12 not an individual, then a partner of the general partnership,
13 shareholder of the family farm corporation, or member of the
14 family farm limited liability company must reside in this
15 state at the time the financial assistance is awarded.

16 (2) The agricultural producer must participate in an Iowa
17 agricultural industry venture as provided according to the
18 terms of an agreement executed by the agricultural producer
19 and the corporation. The agreement may require that the
20 agricultural producer acquire an interest in an agricultural
21 products processor certified by the corporation, or enter into
22 a marketing agreement under which the agricultural producer
23 agrees to market an amount of the agricultural producer's
24 agricultural commodities to the agricultural products
25 processor.

26 b. The corporation may provide financing to an
27 agricultural products processor as part of an Iowa
28 agricultural industry venture as provided according to the
29 terms of an agreement executed by the agricultural products
30 processor and the corporation. The corporation shall only
31 provide financing if the venture involves the construction,
32 expansion, or acquisition of an agricultural products
33 processing facility as certified by the corporation and if all
34 of the following apply:

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

1 (2) Either of the following apply:

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

8 (b) More than fifty percent of the commodities processed
9 by the certified facility during any twelve-month period is
10 purchased from agricultural producers who are residents of
11 this state at the time that the financing is provided. If the
12 agricultural producer is not an individual, then a partner of
13 the general partnership, shareholder of the family farm
14 corporation, or member of the family farm limited liability
15 company must reside in this state at the time the financing is
16 provided.

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

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

25 Sec. 12. NEW SECTION. 15E.211 OBLIGATIONS.

26 The obligations of the corporation are not obligations of
27 this state or any political subdivision of this state within
28 the meaning of any constitutional or statutory debt
29 limitations, but are obligations of the corporation payable
30 solely and only from the corporation's funds. The corporation
31 shall not pledge the credit or taxing power of this state or
32 any political subdivision of this state or make its debts
33 payable out of any moneys except for those of the corporation.

34 Sec. 13. NEW SECTION. 15E.212 RULES.

35 The department may adopt rules pursuant to chapter 17A

1 necessary to administer this division.

2 Sec. 14. Section 423.24, subsection 1, paragraph a,
3 subparagraph (2), Code Supplement 1997, is amended to read as
4 follows:

5 (2) ~~Beginning January 1, 1996, through December 31, 1997,~~
6 ~~two million five hundred thousand dollars per quarter shall be~~
7 ~~deposited into and credited to the Iowa comprehensive~~
8 ~~petroleum underground storage tank marketability fund created~~
9 ~~in section 4556.21.~~ Beginning January 1, 1998, through
10 ~~December 31, 2002~~ June 30, 1999, four million two hundred
11 fifty thousand dollars per quarter shall be ~~deposited into and~~
12 credited to the Iowa comprehensive petroleum underground
13 ~~storage tank marketability fund created in section 4556.21~~
14 department of economic development. However, not more than a
15 total of twenty-five million dollars shall be credited to the
16 department. The moneys so deposited credited are a continuing
17 appropriation to be expended ~~in accordance with section~~
18 ~~4556.21~~ to carry out the provisions of section 15E.208, and
19 the moneys shall not be used for other purposes.

20 Sec. 15. 1995 Iowa Acts, chapter 215, section 29,
21 subsection 1, is amended to read as follows:

22 1. Section 423.24, subsection 1, paragraph "a",
23 subparagraph (2) is repealed on ~~January 1, 2003~~ July 1, 1999.

24 Sec. 16. TRANSFER AND RETROACTIVITY. Moneys deposited in
25 the Iowa comprehensive petroleum underground storage tank
26 marketability fund created in section 455G.21 derived from the
27 use tax as provided in section 423.24, Code Supplement 1997,
28 from January 1, 1998, until July 1, 1998, shall be transferred
29 to the department of economic development for use as provided
30 in section 15E.208, as enacted in this Act. This section
31 shall be retroactively applicable on and after January 1,
32 1998.

33 Sec. 17. DIRECTIONS TO CODE EDITOR. Section 15E.202,
34 subsection 14, paragraph "c", as enacted in this Act, is
35 amended by striking the paragraph, and the Code editor is

1 directed to eliminate the paragraph, if 1998 Iowa Acts, House
2 File 2335, is not enacted by the Seventy-seventh General
3 Assembly, 1998 Session.

4 Sec. 18. EFFECTIVE DATE. Section 16 of this Act, being
5 deemed of immediate importance, takes effect upon enactment.

6 EXPLANATION

7 This bill relates to agricultural finance. Major sections
8 of the bill provide for all of the following:

9 Section 1 of this bill is not codified. It provides for
10 legislative findings by the general assembly. The bill
11 provides that the general assembly finds that the economic
12 structure of agricultural production is undergoing a period of
13 rapid transformation; there is an increasing world demand for
14 high quality agricultural products; there is a need for
15 additional sources of financing for local agricultural
16 producer-led ventures to expand production, processing, and
17 marketing of high value agricultural products; and it is
18 necessary for the state to authorize the formation of private
19 corporations in order to provide sources of investment capital
20 to encourage agricultural producer-led ventures.

21 The bill establishes a new division within chapter 15E
22 which authorizes the establishment of Iowa agricultural
23 industry finance corporations.

24 Code section 15E.201 provides that the division shall be
25 known and may be cited as the "Iowa Agricultural Industry
26 Finance Act".

27 Code section 15E.202 provides definitions. Generally, the
28 words and phrases used in the division have the same meaning
29 as used in chapter 490, the "Iowa Business Corporation Act".
30 The section also provides a number of additional definitions
31 used in the division, including definitions for "actively
32 engaged in agriculture", and "agricultural producer".

33 Code section 15E.203 provides for findings, intent, and
34 purposes of the division. The section provides that it is the
35 intent of the general assembly that this state capture the

1 greatest benefit from opportunities created during the period
2 of transition noted in the findings, by encouraging local
3 agricultural producer-led ventures to expand production and
4 processing of high value agricultural products. The section
5 provides that it is the intention of the general assembly that
6 the majority of the wealth created by Iowa agricultural
7 productivity is retained in this state; that employment in the
8 production, processing, and marketing of agricultural products
9 is increased in this state; and that agricultural producers in
10 this state be provided with an opportunity to acquire a
11 majority ownership interest in Iowa agricultural industry
12 ventures.

13 Code section 15E.204 provides for the powers of Iowa
14 agricultural industry finance corporations. The section
15 provides that generally, these corporations have the same
16 powers and privileges conferred by provisions of Code chapter
17 490. The section provides that the division does not limit
18 the number of Iowa agricultural industry finance corporations
19 authorized to be established and that a corporation not be
20 restricted from holding financial or security instruments.
21 The section also provides that an Iowa agricultural industry
22 finance corporation is a private business corporation and not
23 a public corporation or instrumentality of the state.

24 Code section 15E.205 provides that an entity incorporated
25 under Code chapter 490 is an Iowa agricultural industry
26 finance corporation, if the corporation complies with certain
27 requirements. The section provides that at least 51 percent
28 of the corporation's common stock must be held by agricultural
29 producers, and at least 51 percent of the corporation's voting
30 stock must be held by agricultural producers. In addition,
31 the purpose of the corporation must be limited to providing
32 financing to eligible persons who are engaging in Iowa
33 agricultural industry ventures in which agricultural producers
34 produce agricultural commodities for processing and marketing
35 as agricultural processed products.

1 Code section 15E.206 provides for the formation of model
2 Iowa agricultural industry finance corporations in order to
3 perfect the manner in which such corporations are formed and
4 operate. The section provides for incorporating the
5 corporation and the election of an initial board of directors,
6 with assistance from the department of economic development.

7 Code section 15E.207 provides that in carrying out its
8 duties and exercising its powers, an Iowa agricultural
9 industry finance corporation must be guided by several
10 principles. It must exercise diligence and care in the
11 selection of persons and projects to receive financing, and
12 with limited exceptions, it cannot hold an interest in real or
13 depreciable property.

14 Code section 15E.208 provides that the department of
15 economic development may award an Iowa agricultural industry
16 finance loan to an Iowa agricultural industry finance
17 corporation, if the department in its discretion determines
18 that the corporation is qualified. The department may attach
19 conditions to the granting of the loan as it deems desirable.
20 The loan is repayable upon terms and conditions negotiated by
21 the parties. However, the loan's repayment schedule shall not
22 exceed 25 years from the date that the loan is issued. The
23 section places a number of restrictions upon corporations who
24 are eligible for assistance. The corporation must provide for
25 public oversight and its articles of incorporation must comply
26 with requirements established by the department relating to
27 the capacity and integrity of the corporation to carry out the
28 purposes of this division of Code chapter 15E. The section
29 also requires a default of a loan if a corporation fails to
30 comply with requirements contained in the division or by the
31 department, or is involved in winding up its affairs pursuant
32 to merger or sale.

33 Code section 15E.209 provides that dividends received by
34 the shareholders of a qualified Iowa agricultural industry
35 finance corporation are exempt from Iowa income tax under Code

1 chapter 422, if more than 50 percent of the equity of the
2 corporation is attributable to an Iowa agricultural industry
3 finance loan.

4 Code section 15E.210 provides requirements for a
5 corporation extending financing to agricultural producers.
6 The agricultural producer must be a resident of this state at
7 the time the financing is provided. The agricultural producer
8 must participate in an Iowa agricultural industry venture as
9 provided according to the terms of an agreement executed by
10 the agricultural producer and the corporation. The
11 corporation may also provide financing to an agricultural
12 products processor as part of an Iowa agricultural industry
13 venture. The corporation shall only provide financing if the
14 venture involves the construction, expansion, or acquisition
15 of an agricultural products processing facility as certified
16 by the corporation in which agricultural producers are
17 involved. The section provides that financing may be in the
18 form of a loan, loan guarantee, sale and purchase of mortgage
19 instruments for eligible recipients, or other similar forms of
20 financing.

21 Code section 15E.211 provides that the obligations of the
22 corporation are not obligations of this state or any political
23 subdivision of this state.

24 Code section 15E.212 authorizes the department of economic
25 development to adopt rules under chapter 17A necessary to
26 administer the division.

27 Code section 423.24 is amended. Code section 423.24
28 allocates use tax moneys to the Iowa comprehensive petroleum
29 underground storage tank marketability fund through December
30 31, 2002. This bill provides that \$4,250,000 per quarter from
31 the use tax shall be credited to the department for purposes
32 of supporting the bill until June 30, 1999, to a maximum of
33 \$25 million. Another section in the bill provides that moneys
34 deposited in the Iowa comprehensive petroleum underground
35 storage tank marketability fund from January 1, 1998, until

1 the effective date of this bill must be transferred to the
2 department. That section of the bill is made effective upon
3 enactment.

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**SENATE FILE 2415
FISCAL NOTE**

A fiscal note for Senate File 2415 as passed by the Senate is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2415, as passed by the Senate, relates to agricultural finance. The Bill re-allocates \$25.0 million of use tax revenue from the Underground Storage Tank Program to the Department of Economic Development to be used for Iowa Agricultural Industry Finance Loans. The loans may be made to qualified Iowa Agricultural Industry Finance Corporations. The loans shall be repaid in 25 annual installments, beginning six years after the loan is made. Loan repayments would be deposited to the General Fund. The Bill does not require interest to be paid on the loan balance. Dividends received by Corporation shareholders would be exempt from Iowa Income Tax.

ASSUMPTIONS

1. The interest rate in all years will be 5.95% (the current 30-year U.S. Treasury Rate).
2. All loans will be repaid on time and the Department will not re-loan the money.
3. The Department of Economic Development will require 1.0 FTE and \$75,000 annually to administer the Program.

FISCAL IMPACT

The fiscal impact of the \$25.0 million loan provision is \$15.4 million, computed by comparing the present value of the loan repayments invested over 30 years versus the present value of the \$25.0 million invested over 30 years. The fiscal impact would increase if any loan payments were not made due to default or changes in loan repayment requirements. If no loan repayments are made, the fiscal impact would be \$25.0 million.

The fiscal impact of the tax exemption on dividends cannot be determined because the profitability of the corporation(s) cannot be predicted. The Bill does not provide financing or the FTE position required to administer the Program. The fiscal impact of administration would therefore fall on other programs administered by the Department of Economic Development.

There would be a positive fiscal impact on State and local tax revenues to the extent that the loans create net economic activity within the State that would not otherwise exist. That fiscal impact cannot be determined.

SOURCES

Department of Economic Development
Legislative Fiscal Bureau

(LSB 4402sv.2, JWR)

FILED APRIL 6, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

**SENATE FILE 2415
FISCAL NOTE**

A fiscal note for Senate File 2415 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2415 relates to agricultural finance. The Bill re-allocates \$25.0 million of use tax revenue from the Underground Storage Tank Program to the Department of Economic Development to be used for Iowa Agricultural Industry Finance Loans. The loans may be made to qualified Iowa Agricultural Industry Finance Corporations. The loans shall be repaid in 25 annual installments, beginning six years after the loan is made. The Bill does not specify what the Department is to do with the loan repayments. The Bill does not require interest to be paid on the loan balance. Dividends received by Corporation shareholders would be exempt from Iowa Income Tax.

ASSUMPTIONS

1. The interest rate in all years will be 5.95% (the current 30-year U.S. Treasury Rate).
2. All loans will be repaid on time and the Department will not re-loan the money.
3. The Department of Economic Development will require 1.0 FTE and \$75,000 annually to administer the Program.

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The fiscal impact of the \$25.0 million loan provision is \$15.4 million, computed by comparing the present value of the loan repayments invested over 30 years versus the present value of the \$25.0 million invested over 30 years. The fiscal impact would increase if any loan payments were not made due to default or changes in loan repayment requirements. If no loan repayments are made, the fiscal impact would be \$25.0 million.

The fiscal impact of the tax exemption on dividends cannot be determined because the profitability of the corporation(s) cannot be predicted. The Bill does not provide financing or the FTE position required to administer the Program. The fiscal impact of administration would therefore fall on other programs administered by the Department of Economic Development.

There would be a positive fiscal impact on State and local tax revenues to the extent that the loans create net economic activity within the State that would not otherwise exist. That fiscal impact cannot be determined.

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SOURCES

Department of Economic Development
Legislative Fiscal Bureau

(LSB 4402SV, JWR)

FILED MARCH 31, 1998

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2415

S-5473

1 Amend Senate File 2415, as follows:

2 1. Page 17, line 16, by striking the word "The"
3 and inserting the following: "Except as provided in
4 this section, the".

5 2. Page 17, by inserting after line 19 the
6 following:

7 "For the fiscal year beginning on July 1, 1998, the
8 department of economic development shall transfer from
9 the credited moneys to the department of education for
10 allocation by the school budget review committee, an
11 amount necessary to be distributed as supplemental aid
12 to a district that is located within ten miles from an
13 establishment regulated under chapter 189A where
14 animals or poultry are slaughtered, if the district
15 applies to the school budget review committee and has
16 unusual need for advance funding to provide a program
17 or other special assistance to limited English
18 proficient pupils. The supplemental aid distributed
19 under this paragraph shall be miscellaneous income and
20 shall not be included in district cost."

By BILL FINK

S-5473 FILED APRIL 1, 1998

RULED OUT OF ORDER (P. 1002)

SENATE FILE 2415

S-5476

1 Amend Senate File 2415 as follows:

2 1. Page 14, by striking lines 29 through 35.

3 2. Page 15, by striking lines 8 through 16 and
4 inserting the following:

5 "a. An agricultural producer must participate in
6 an Iowa".

7 3. Title page, line 1, by striking the words
8 "finance and" and inserting the following:
9 "finance,".

10 4. Title page, line 2, by striking the words
11 "appropriation and taxation exemption," and inserting
12 the following: "appropriation,".

13 5. By renumbering as necessary.

By DERRYL McLAREN
JOHN P. KIBBIE

S-5476 FILED APRIL 1, 1998

ADOPTED

(P. 1001)

SENATE FILE 2415

S-5463

- 1 Amend Senate File 2415 as follows:
2 1. Page 16, by inserting after line 16, the
3 following:
4 " _____. A corporation shall not provide financing to
5 a person for the acquisition, construction, or
6 expansion of a facility used for slaughtering
7 livestock as defined in section 717.1, if the facility
8 is located or is proposed to be located within a city
9 having a population of two hundred thousand or more.
10 A person who violates this subsection shall
11 immediately repay the full amount of the financing
12 provided by the corporation."
13 2. By renumbering as necessary.

By MATT McCOY

S-5463 FILED APRIL 1, 1998

LOST (p. 1003)

SENATE FILE 2415

S-5464

- 1 Amend Senate File 2415 as follows:
2 1. Page 16, by inserting after line 16 the
3 following:
4 " _____. In providing financing under this section,
5 the corporation shall select eligible persons on a
6 competitive basis. A person who enters into a good
7 neighbor agreement shall receive extra consideration.
8 A good neighbor agreement is an enforceable contract
9 between the person eligible to receive financing and a
10 community group or coalition of community groups which
11 requires the person to adhere to negotiated
12 environmental, economic, labor, or other social and
13 community standards as part of the Iowa agricultural
14 industry venture. A person who fails to abide by the
15 good neighbor agreement shall repay all financial
16 assistance received from the corporation by the
17 person."

By MATT McCOY

S-5464 FILED APRIL 1, 1998

LOST

p. 1001

4-2-98 Approp.
H. 4/15/98 Amend / Do Pass w/H-9196
S. 4/20/98 MTR by McHaren
S. 4/22/98 MTR withdrawn

SENATE FILE 2415
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO SSB 2214)

(AS AMENDED AND PASSED BY THE SENATE APRIL 1, 1998)

_____ - New Language by the Senate

* - Language Stricken by the Senate

Passed Senate, Date ^(p. 1384) 4/20/98 Passed House, Date ^(p. 1757) 4-17-98
Vote: Ayes 46 Nays 1 Vote: Ayes 72 Nays 27
Approved March 20, 1998

A BILL FOR

1 An Act relating to agricultural finance, providing an
2 appropriation, and providing an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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S.F. 2415

1 Section 1. LEGISLATIVE FINDINGS. The general assembly
2 finds and declares all of the following:

3 1. a. The economic structure of agriculture, including
4 the production of agricultural commodities and the processing
5 and marketing of agricultural products, is undergoing a period
6 of rapid transformation.

7 (1) Longstanding government programs supporting prices for
8 agricultural commodities are being phased out, and new
9 technologies and management arrangements are creating large
10 scale integrated systems for producing and processing
11 agricultural commodities, and marketing agricultural processed
12 products.

13 (2) An increasing world demand exists for high quality
14 agricultural products caused by the simultaneous reduction of
15 trade barriers among nations and an increase in income of
16 those nations' populations.

17 b. The ability of this state and its agricultural
18 producers to adapt to these forces and their consequences at
19 the threshold of the twenty-first century will determine the
20 degree to which this state will prosper.

21 2. a. A need exists for additional sources of financing
22 for local agricultural producer-led ventures to expand
23 production, processing, and marketing of high value
24 agricultural products, to organize new business structures
25 within the state to carry out these ventures, and to market
26 and deliver increasingly high value agricultural products to
27 consumers around the world.

28 b. Traditional channels of financing and business
29 organization have not been adequate to address this need.

30 c. A trend toward corporate vertical integration in the
31 production, processing, and marketing of agricultural products
32 exists which requires agricultural producers to develop
33 innovative cooperative ventures in order to successfully
34 compete in a changing marketplace.

35 3. It is necessary for the state to authorize the

1 formation of private corporations in order to provide sources
2 of investment capital to encourage agricultural producer-led
3 ventures, including providing limited state financial support
4 necessary to stimulate these ventures.

5 4. All of the purposes stated in this Act are public
6 purposes. All of the following is necessary in order to
7 satisfy the intent and promote the purposes of this Act:

8 a. The authorization of the formation of Iowa agricultural
9 industry finance corporations as provided in this Act,
10 including authorizing persons to facilitate the formation of a
11 private corporation.

12 b. The use of public moneys to support activities
13 identified in this Act, including funding Iowa agricultural
14 industry finance corporations, making available loans to
15 initiate ventures as provided in this Act, and providing
16 incentives included in this Act for qualified Iowa
17 agricultural industry financing corporations.

18 DIVISION XIX

19 IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATIONS

20 Sec. 2. NEW SECTION. 15E.201 SHORT TITLE.

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

23 Sec. 3. NEW SECTION. 15E.202 DEFINITIONS.

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

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

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

34 b. Regularly and frequently make or take an important part
35 in making management decisions substantially contributing to

1 or affecting the success of the agricultural operation.

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

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

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

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

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

17 a. An individual actively engaged in agricultural
18 production.

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

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

24 (2) A family farm corporation as defined in section 9H.1,
25 if a shareholder and an officer, director, or employee of the
26 corporation is actively engaged in agricultural production.

27 (3) A family farm limited liability company as defined in
28 section 9H.1, if a member or manager of the family farm
29 limited liability company is actively engaged in agricultural
30 production.

31 (4) A family farm limited partnership as defined in
32 section 9H.1, if a general partner is actively engaged in
33 agricultural production.

34 (5) A family trust as defined in section 9H.1, if a
35 beneficiary is actively engaged in agricultural production.

1 6. "Agricultural product" means an agricultural commodity
2 or an agricultural processed product.

3 7. "Certified facility" means a facility used to process
4 agricultural products as certified by a corporation pursuant
5 to section 15E.210.

6 8. "Department" means the department of economic
7 development as created in section 15.101.

8 9. "Economic development board" means the economic
9 development board created pursuant to section 15.103.

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

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

15 12. "Iowa agricultural industry venture" means an
16 enterprise involving agricultural producers investing in a new
17 facility or acquiring or expanding an existing facility in
18 this state which is used to process agricultural commodities
19 produced in this state, if the purpose of the enterprise is to
20 accomplish all of the following:

21 a. The creation and retention of wealth in this state
22 derived from processing and marketing agricultural commodities
23 produced in this state.

24 b. Increasing production, processing, and marketing of
25 value-added agricultural products in this state.

26 c. Providing for a substantial equitable ownership
27 interest in the enterprise by Iowa agricultural producers.

28 d. Providing an alternative in this state to corporate
29 vertical integration in the production, processing, and
30 marketing of agricultural products.

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

35 14. "Qualified investor" means any of the following:

- 1 a. An agricultural producer.
- 2 b. A cooperative corporation organized under chapter 501.
- 3 c. A networking farmers entity as defined in section 10.1.
- 4 15. "Qualified Iowa agricultural industry finance
- 5 corporation" or "qualified corporation" means an Iowa
- 6 agricultural industry financing corporation which meets the
- 7 eligibility requirements of and is approved by the department
- 8 pursuant to section 15E.208.

9 Sec. 4. NEW SECTION. 15E.203 FINDINGS -- INTENT AND
10 PURPOSES.

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

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

- 26 a. That the majority of the wealth created by Iowa
- 27 agricultural productivity is retained in this state.
- 28 b. That employment in the production, processing, and
- 29 marketing of agricultural products, and especially
- 30 agricultural processed products, is increased in this state.
- 31 c. That agricultural producers in this state are provided
- 32 with an opportunity to acquire a majority ownership interest
- 33 in Iowa agricultural industry ventures promoted under this
- 34 division.
- 35 d. That this state becomes a world model for agricultural

1 producer-based vertical cooperation which depends upon broadly
2 shared access to information, capital, and cooperative action.

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

7 Sec. 5. NEW SECTION. 15E.204 IOWA AGRICULTURAL INDUSTRY
8 FINANCE CORPORATIONS -- SCOPE OF POWERS AND DUTIES.

9 1. An Iowa agricultural industry finance corporation
10 formed under this division shall be subject to and have the
11 powers and privileges conferred by provisions of chapter 490,
12 unless otherwise limited by or inconsistent with the
13 provisions of this division.

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

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

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

23 c. That a corporation is restricted from holding,
24 acquiring, or transferring financial or security instruments,
25 including but not limited to a security regulated under
26 chapter 502, money, accounts, and chattel paper under chapter
27 554, security interests under chapter 554, or a mortgage or
28 deed of trust under chapter 654.

29 3. An Iowa agricultural industry finance corporation is a
30 private business corporation and not a public corporation or
31 instrumentality of the state. Except as provided in this
32 division, nothing in this division exempts an Iowa
33 agricultural industry finance corporation from the same
34 requirements under state law which apply to other corporations
35 organized under chapter 490, including taxation provisions

1 under chapter 422 or Title X, subtitle 2 of this Code, or
2 security regulations under chapter 502.

3 Sec. 6. NEW SECTION. 15E.205 IOWA AGRICULTURAL INDUSTRY
4 FINANCE CORPORATIONS -- REQUIREMENTS.

5 1. A corporation incorporated under chapter 490 is an Iowa
6 agricultural industry finance corporation, if the corporation
7 complies with the requirements of this section and section
8 15E.206. In addition to the other requirements for a
9 corporation organized under chapter 490, all of the following
10 shall apply:

11 a. At least fifty-one percent of the corporation's common
12 stock must be held by agricultural producers. At least fifty-
13 one percent of the corporation's voting stock must be held by
14 agricultural producers.

15 b. The purpose of the corporation must be limited to
16 providing financing to eligible persons under section 15E.210
17 who are engaging in Iowa agricultural industry ventures
18 limited to establishing a business structure in which
19 agricultural producers produce agricultural commodities for
20 processing and marketing as agricultural processed products.

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

23 Sec. 7. NEW SECTION. 15E.206 FORMATION OF AN IOWA
24 AGRICULTURAL INDUSTRY FINANCE CORPORATION.

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

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

1 a. The chairperson of the economic development board or a
2 designee of the chairperson.

3 b. The director of the department of economic development,
4 or a designee of the director.

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

7 3. After incorporation, such a corporation shall be
8 organized by an initial board of directors as provided in
9 chapter 490, division II. The initial board of directors
10 shall be elected as follows:

11 a. An interim board of directors for the corporation,
12 composed of the members of the economic development board,
13 shall appoint a nominating committee. The members of the
14 nominating committee shall include persons who have an
15 expertise in areas of banking, agricultural lending, business
16 development, agricultural production and processing, seed and
17 venture capital investment, and other areas of expertise as
18 deemed appropriate by the interim board of directors.

19 b. Members of the interim board of directors and members
20 of the nominating committee shall hold a joint meeting to
21 elect five initial board directors from the list of candidates
22 nominated by the nominating committee.

23 c. Upon the election of the initial board of directors,
24 the terms of the interim board of directors and the nominating
25 committee shall expire.

26 4. The department shall assist the incorporators, the
27 interim board of directors, and the nominating committee in
28 any manner determined necessary and appropriate by the
29 economic development board and the director of the department
30 in order to administer this section.

31 Sec. 8. NEW SECTION. 15E.207 IOWA AGRICULTURAL INDUSTRY
32 FINANCE CORPORATIONS -- GUIDING PRINCIPLES.

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

1 1. The corporation must exercise diligence and care in the
2 selection of persons and projects to receive financing as
3 provided in section 15E.210. The corporation must apply
4 customary and acceptable business and lending standards and
5 practices in selecting persons and projects designated for
6 financing and managing agreements under which financing is
7 provided.

8 2. Except as otherwise provided in this section, the
9 corporation shall not become an owner of real or depreciable
10 property, including agricultural land, as provided in section
11 9H.4. However, this subsection shall not preclude the
12 corporation from holding an interest in real or depreciable
13 property if any of the following apply:

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

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

20 (1) The interest is a bona fide encumbrance taken for
21 purposes of security in connection with providing financing
22 under section 15E.210.

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

25 (a) Devise or bequest.

26 (b) Court order.

27 (c) Dissolution under chapter 490, division XIV.

28 (d) Order in bankruptcy.

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

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

4 Sec. 9. NEW SECTION. 15E.208 QUALIFIED CORPORATIONS --
5 IOWA AGRICULTURAL INDUSTRY FINANCE LOANS.

6 1. The department may award an Iowa agricultural industry
7 finance loan to an Iowa agricultural industry finance
8 corporation, if the department in its discretion determines
9 that the corporation is qualified under this section.

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

13 3. The department may loan all or part of the amounts
14 available to the department pursuant to this division to a
15 qualified corporation with provisions and restrictions as
16 determined by the department and contained in a loan agreement
17 executed between the department and the qualified corporation.

18 a. The department may attach conditions to the granting of
19 the loan as it deems desirable. The attorney general shall
20 assist the department in drafting loan agreements and in
21 collecting on the loan agreement.

22 b. The loan shall be repayable upon terms and conditions
23 negotiated by the parties. The repayment period shall begin
24 six years following the date when the loan is awarded and end
25 twenty-five years after the date that the repayment period
26 begins. At least four percent of the amount due shall be paid
27 each year to the department. The corporation shall not be
28 subject to a prepayment penalty.

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

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

33 (1) The agricultural producer is a party to a pending
34 action for a violation of chapter 455B concerning a
35 confinement feeding operation in which the person has a

1 controlling interest and the action is commenced in district
2 court by the attorney general.

3 (2) The agricultural producer or a confinement feeding
4 operation in which the agricultural producer holds a
5 controlling interest is classified as a habitual violator
6 under section 455B.191.

7 b. An agricultural products processor, if the processor or
8 a person owning a controlling interest in the processor has
9 demonstrated, within the most recent consecutive three-year
10 period prior to the application for financing, a continuous
11 and flagrant disregard for the health and safety of its
12 employees or the quality of the environment. Violations of
13 environmental protection statutes, rules, or regulations shall
14 be reported for the most recent five-year period prior to
15 application. Evidence of such disregard shall include a
16 history of serious or uncorrected violations of state or
17 federal law protecting occupational health and safety or the
18 environment, including but not limited to serious or
19 uncorrected violations of occupational safety and health
20 standards enforced by the division of labor services of the
21 department of employment services pursuant to chapter 84A, or
22 rules enforced by the environmental protection division of the
23 department of natural resources pursuant to chapter 455B.

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

27 a. The corporation must only provide financing to persons
28 and ventures eligible under section 15E.210.

29 b. The corporation must demonstrate that it complies with
30 guiding principles for the corporation as provided in section
31 15E.207.

32 c. The corporation must adopt policies and procedures
33 which maximize public oversight into the affairs of the
34 corporation, by providing a forum for public comment, an
35 opportunity for public review of the corporation's actions,

1 and methods to ensure accountability for the expenditure of
2 public moneys loaned to the corporation.

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

8 (1) The capitalization of the corporation.

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

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

18 (4) The manner of oversight required by the department or
19 the auditor of state. The articles must provide that the
20 corporation shall submit a report to the governor, the general
21 assembly, and the department. The report shall provide a
22 description of the corporation's activities and a summary of
23 its finances, including financial awards. The report shall be
24 submitted not later than January 10 of each year. The
25 articles shall provide for an annual audit by the auditor of
26 state or a certified public accountant licensed pursuant to
27 chapter 542C. A summary of the audit shall be included in the
28 report.

29 (5) The execution of an agreement between the corporation
30 and an eligible recipient as required by the department as a
31 condition of providing financing, in which the eligible
32 recipient agrees to become a shareholder in the corporation.
33 The agreement shall be for a period of not less than ten
34 years. An agreement shall at least provide all of the
35 following:

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

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

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

11 e. A portfolio which is diversified among all types of
12 agricultural commodities must be maintained.

13 f. The corporation may only be terminated by the following
14 methods, unless approved by the department:

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

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

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

26 The corporation may deviate from a requirement in this
27 subsection, upon the affirmative vote of a majority of the
28 corporation's board of directors, and approval of the
29 department based on the department's determination that the
30 activity furthers the interest of Iowa agricultural producers
31 to process their own agricultural products and the approval by
32 the board of directors is integral to accomplishing the
33 purposes of the corporation.

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

1 a. Violates a provision of the articles of incorporation
2 or an amendment to the articles of incorporation that is
3 required by this division which violation is not approved by
4 the department.

5 b. Violates the terms of the loan agreement executed
6 between the department and the corporation, which violation is
7 not approved by the department.

8 c. Fails to comply with the requirements of section
9 15E.205.

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

11 (1) The transaction involves any of the following:

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

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

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

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

27 8. Moneys repaid or collected by the department under this
28 section shall be deposited into the general fund of the state.

* 29 Sec. 10. NEW SECTION. 15E.210 FINANCING PROVIDED BY AN
30 IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATION.

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

1 a. An agricultural producer must participate in an Iowa
2 agricultural industry venture as provided according to the
3 terms of an agreement executed by the agricultural producer
4 and the corporation. The agreement may require that the
5 agricultural producer acquire an interest in an agricultural
6 products processor certified by the corporation, or enter into
7 a marketing agreement under which the agricultural producer
8 agrees to market an amount of the agricultural producer's
9 agricultural commodities to the agricultural products
10 processor.

11 b. The corporation may provide financing to an
12 agricultural products processor as part of an Iowa
13 agricultural industry venture as provided according to the
14 terms of an agreement executed by the agricultural products
15 processor and the corporation. The corporation shall only
16 provide financing if the venture involves the construction,
17 expansion, or acquisition of an agricultural products
18 processing facility as certified by the corporation and if all
19 of the following apply:

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

21 (2) Either of the following apply:

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

28 (b) More than fifty percent of the commodities processed
29 by the certified facility during any twelve-month period is
30 purchased from agricultural producers who are residents of
31 this state at the time that the financing is provided. If the
32 agricultural producer is not an individual, then a partner of
33 the general partnership, shareholder of the family farm
34 corporation, or member of the family farm limited liability
35 company must reside in this state at the time the financing is

1 provided.

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

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

10 Sec. 11. NEW SECTION. 15E.211 OBLIGATIONS.

11 The obligations of the corporation are not obligations of
12 this state or any political subdivision of this state within
13 the meaning of any constitutional or statutory debt
14 limitations, but are obligations of the corporation payable
15 solely and only from the corporation's funds. The corporation
16 shall not pledge the credit or taxing power of this state or
17 any political subdivision of this state or make its debts
18 payable out of any moneys except for those of the corporation.

19 Sec. 12. NEW SECTION. 15E.212 RULES.

20 The department may adopt rules pursuant to chapter 17A
21 necessary to administer this division.

22 Sec. 13. Section 423.24, subsection 1, paragraph a,
23 subparagraph (2), Code Supplement 1997, is amended to read as
24 follows:

25 ~~(2) Beginning January 1, 1996, through December 31, 1997,~~
26 ~~two million five hundred thousand dollars per quarter shall be~~
27 ~~deposited into and credited to the Iowa comprehensive~~
28 ~~petroleum underground storage tank marketability fund created~~
29 ~~in section 455G-21. Beginning January 1, 1998, through~~
30 ~~December 31, 2002~~ June 30, 1999, four million two hundred
31 fifty thousand dollars per quarter shall be deposited into and
32 credited to the Iowa comprehensive petroleum underground
33 ~~storage tank marketability fund created in section 455G-21~~
34 department of economic development. However, not more than a
35 total of twenty-five million dollars shall be credited to the

1 department. The moneys so deposited credited are a continuing
2 appropriation to be expended ~~in accordance with section~~
3 ~~455G.21~~ to carry out the provisions of section 15E.208, and
4 the moneys shall not be used for other purposes.

5 Sec. 14. 1995 Iowa Acts, chapter 215, section 29,
6 subsection 1, is amended to read as follows:

7 1. Section 423.24, subsection 1, paragraph "a",
8 subparagraph (2) is repealed on ~~January 17, 2003~~ July 1, 1999.

9 Sec. 15. TRANSFER AND RETROACTIVITY. Moneys deposited in
10 the Iowa comprehensive petroleum underground storage tank
11 marketability fund created in section 455G.21 derived from the
12 use tax as provided in section 423.24, Code Supplement 1997,
13 from January 1, 1998, until July 1, 1998, shall be transferred
14 to the department of economic development for use as provided
15 in section 15E.208, as enacted in this Act. This section
16 shall be retroactively applicable on and after January 1,
17 1998.

18 Sec. 16. DIRECTIONS TO CODE EDITOR. Section 15E.202,
19 subsection 14, paragraph "c", as enacted in this Act, is
20 amended by striking the paragraph, and the Code editor is
21 directed to eliminate the paragraph, if 1998 Iowa Acts, House
22 File 2335, is not enacted by the Seventy-seventh General
23 Assembly, 1998 Session.

24 Sec. 17. EFFECTIVE DATE. Section 15 of this Act, being
25 deemed of immediate importance, takes effect upon enactment.

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SENATE FILE 2415

H-9196

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting after line 20, the
4 following:

5 " . A need exists to support the production of
6 agricultural commodities and the processing and
7 marketing of agricultural products which are produced
8 by using biological techniques for the development of
9 specialized plant or animal characteristics for
10 beneficial nutritional, commercial, or industrial
11 purposes."

12 2. Page 1, by inserting after line 34, the
13 following:

14 " . A need exists for additional sources of
15 financing for ventures designed to support the
16 production, processing, and marketing of high value
17 agricultural products using biological techniques
18 which create increasingly high value agricultural
19 products for consumers around the world."

20 3. Page 2, line 2, by striking the words
21 "agricultural producer-led" and inserting the
22 following: "Iowa agricultural industry".

23 4. Page 3, by striking lines 24 through 35 and
24 inserting the following:

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

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

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

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

34 (d) A beneficiary of a family trust.

35 (3) A networking farmers entity."

36 5. Page 4, by inserting after line 2, the
37 following:

38 " . "Biotechnology enterprise" means an
39 enterprise organized under the laws of this state
40 using biological techniques for the development of
41 specialized plant or animal characteristics for
42 beneficial nutritional, commercial, or industrial
43 purposes."

44 6. Page 4, by inserting after line 9 the
45 following:

46 " . "Family farm entity" means a family farm
47 corporation, family farm limited liability company,
48 family farm limited partnership, or family trust as
49 defined in section 9H.1."

50 7. Page 4, by striking lines 15 and 16 and

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Page 2

1 inserting the following:

2 "_____. "Iowa agricultural industry venture" means
3 an enterprise involving any of the following:

4 a. Agricultural producers investing in a new".

5 8. Page 4, line 21, by striking the word "a." and
6 inserting the following: "(1)".

7 9. Page 4, line 24, by striking the word "b." and
8 inserting the following: "(2)".

9 10. Page 4, line 26, by striking the word "c."
10 and inserting the following: "(3)".

11 11. Page 4, line 28, by striking the word "d."
12 and inserting the following: "(4)".

13 12. Page 4, by inserting after line 30 the
14 following:

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

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

21 (2) Increasing the value of agricultural
22 commodities."

23 13. Page 4, by inserting after line 34 the
24 following:

25 "_____. "Networking farmers entity" means the same
26 as defined in section 10.1, as enacted by 1998 Iowa
27 Acts, House File 2335."

28 14. Page 5, line 3, by striking the words "as
29 defined in section 10.1".

30 15. Page 6, by inserting after line 6 the
31 following:

32 "_____. It is the intent of the general assembly and
33 the purpose of this division that the state encourage
34 Iowa agricultural industry ventures which promote the
35 research and application of biological techniques for
36 the development of specialized plant or animal
37 characteristics for beneficial nutritional,
38 commercial, or industrial purposes."

39 16. Page 8, line 7, by inserting after the figure
40 "3." the following: "a."

41 17. Page 8, by striking lines 10 through 27 and
42 inserting the following: "shall be elected by the
43 members of an appointment committee. The members of
44 the appointment committee shall be appointed by the
45 economic development board. The initial board of
46 directors shall consist of seven members. The members
47 of the appointment committee shall include persons who
48 have an expertise in areas of banking, agricultural
49 lending, business development, agricultural production
50 and processing, seed and venture capital investment,

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Page 3

1 and other areas of expertise as deemed appropriate by
2 the interim board of directors.

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

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

14 d. The department shall assist the incorporators
15 and the appointment committee in".

16 18. Page 10, line 13, by striking the words "may
17 loan all or part" and inserting the following: "shall
18 loan all".

19 19. Page 10, line 19, by inserting after the word
20 "desirable" the following: ", including any
21 restrictions on the subordination of the moneys
22 loaned".

23 20. Page 10, by inserting after line 28 the
24 following:

25 "_____. The corporation shall not expend moneys
26 originating from the state, including moneys loaned
27 under this section, on political activity or on any
28 attempt to influence legislation."

29 21. Page 12, line 32, by inserting after the word
30 "corporation." the following: "If the eligible
31 recipient is an agricultural producer as provided in
32 section 15E.210, the agreement shall not be executed
33 unless the agricultural producer holds voting common
34 stock in the corporation equal to at least five
35 percent of the financing provided to the agricultural
36 producer pursuant to the agreement."

37 22. Page 13, by striking lines 11 and 12 and
38 inserting the following:

39 "_____. To the extent feasible and fiscally prudent,
40 the corporation must maintain a portfolio which is
41 diversified among the various types of agricultural
42 commodities and agribusiness.

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

48 23. Page 13, by striking lines 26 through 33.

49 24. Page 14, line 26, by striking the words
50 "general fund of the state" and inserting the

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Page 4

1 following: "road use tax fund created pursuant to
2 section 312.1".

3 25. Page 15, line 1, by striking the words "must
4 participate" and inserting the following:
5 "participating".

6 26. Page 15, by striking lines 11 and 12 and
7 inserting the following:

8 "b. An agricultural products processor which
9 participates as part of an Iowa".

10 27. By striking page 15, line 30, through page
11 16, line 1, and inserting the following: "produced in
12 this state. However, the corporation may provide
13 financing, if its board of directors determines that
14 adequate supplies of the commodity are not available
15 for processing as otherwise required in this
16 subparagraph subdivision."

17 28. Page 16, by inserting before line 2 the
18 following:

19 "_____. An agricultural biotechnology enterprise
20 which qualifies as an Iowa agricultural industry
21 venture as provided according to the terms of an
22 agreement executed by the agricultural biotechnology
23 enterprise and the corporation, if the board of
24 directors for the corporation determines that the
25 enterprise would advance the intent and purposes set
26 out in section 15E.203."

27 29. Page 16, by inserting after line 21 the
28 following:

29 "Sec. _____. Section 423.24, Code Supplement 1997,
30 is amended by inserting the following new unnumbered
31 paragraph before subsection 1:

32 NEW UNNUMBERED PARAGRAPH. Except as otherwise
33 provided in section 312.2, subsection 15, all revenues
34 derived from the use tax on motor vehicles, trailers,
35 and motor vehicle accessories and equipment as
36 collected pursuant to sections 423.7 and 423.7A shall
37 be deposited and credited to the road use tax fund and
38 shall be used exclusively for the construction
39 maintenance, and supervision of public highways.

40 Sec. _____. Section 423.24, subsection 1, unnumbered
41 paragraph 1, Code Supplement 1997, is amended to read
42 as follows:

43 Eighty-percent-of Notwithstanding any provision of
44 this section which provides that all revenues derived
45 from the use tax on motor vehicles, trailers, and
46 motor vehicle accessories and equipment as collected
47 pursuant to section 423.7 and section 423.7A shall be
48 deposited and credited to the road use tax fund,
49 eighty percent of the revenues shall be deposited and
50 credited as follows:"

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1 30. Page 17, by inserting after line 4 the
2 following:

3 "Sec. _____. Section 423.24, subsection 1, paragraph
4 c, Code Supplement 1997, is amended by striking the
5 paragraph.

6 Sec. _____. Section 423.24, subsection 2, Code
7 Supplement 1997, is amended to read as follows:

8 2. Twenty-percent-of Notwithstanding any other
9 provision of this section that provides that all
10 revenue derived from the use tax on motor vehicles,
11 trailers, and motor vehicle accessories and equipment
12 as collected pursuant to section 423.7 shall be
13 deposited and credited to the road use tax fund,
14 twenty percent of the revenues shall be credited and
15 deposited as follows: one-half to the road use tax
16 fund and one-half to the primary road fund to be used
17 for the commercial and industrial highway network,
18 except to the extent that the department directs that
19 moneys are deposited in the highway safety patrol fund
20 created in section 80.41 to fund the appropriations
21 made from the highway safety patrol fund in accordance
22 with the provisions of section 80.41. The department
23 shall determine the amount of moneys to be credited
24 under this subsection to the highway safety patrol
25 fund and shall deposit that amount into the highway
26 safety patrol fund.

27 Sec. _____. NEW SECTION. 423.24A REIMBURSEMENT FOR
28 THE PRIMARY ROAD FUND.

29 The department may credit to the primary road fund
30 any amount of revenues derived from the use tax on
31 motor vehicles, trailers, and motor vehicles
32 accessories and equipment as collected pursuant to
33 sections 423.7 and 423.7A to the extent necessary to
34 reimburse that fund for the expenditures not otherwise
35 eligible to be made from the primary road fund, which
36 are made for repairing, improving, and maintaining
37 bridges over the rivers bordering the state.
38 Expenditures for those portions of bridges within
39 adjacent states may be included when they are made
40 pursuant to an agreement entered into under section
41 313.63, 313A.34, or 314.10."

42 31. Page 17, by striking lines 18 through 23.

43 32. Page 17, by inserting before line 24 the
44 following:

45 "Sec. _____. SEVERABILITY. If any provision of this
46 Act or the application of this Act to any person or
47 circumstance is held invalid, the invalidity shall not
48 affect other provisions or applications of this Act
49 which shall be given effect without the invalid
50 provision or application, and to this end the

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1 provisions of this Act are severable."

2 33. By renumbering, relettering, or redesignating

3 and correcting internal references as necessary.

By COMMITTEE ON APPROPRIATIONS

MILLAGE of Scott, Chairperson

H-9196 FILED APRIL 15, 1998

Adapted

4-17-98

(p.1746)

SENATE FILE 2415

H-9214

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 16, by inserting after line 21 the
4 following:

5 "Sec. ____ Section 315.3, subsection 1, Code 1997,
6 is amended by adding the following new paragraph:

7 NEW PARAGRAPH. g. Improving or maintaining
8 highway access to a site where there is an existing or
9 proposed facility used for value-added processing of
10 agricultural commodities, if all of the following can
11 be demonstrated:

12 (1) The existing highway access cannot support the
13 weight of traffic to the site of the facility.

14 (2) The improvement or maintenance is necessary
15 for the public health or safety.

16 (3) The total public and private investment in the
17 facility equals at least two hundred twenty-five
18 thousand dollars for each job created by the facility.

19 (4) The benefits to the state's economy created by
20 the facility exceeds the amount of moneys expended
21 from the fund under this paragraph "g".

22 The appropriations made pursuant to paragraph "g"
23 shall be derived from the amount for use of counties
24 on secondary road projects as provided in section
25 315.4."

26 2. By renumbering as necessary.

By VANDE HOEF of Osceola	BRAUNS of Muscatine
THOMAS of Clayton	MERTZ of Kossuth
WELTER of Jones	MUNDIE of Webster
WEIDMAN of Cass	GREIG of Emmet
HOUSER of Pottawattamie	

H-9214 FILED APRIL 16, 1998

W/D 4-17-98
(P.1754)

SENATE FILE 2415

H-9215

1 Amend the amendment, H-9196, to Senate File 2415,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 3, line 43, by striking the word
5 "seventy-five" and inserting the following. "twenty".

By KOENIGS of Mitchell
CHURCHILL of Polk

E-9215 FILED APRIL 16, 1998

Aut 4/17/98
(P.1745)

SENATE FILE 2415

H-9241

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 16, by inserting before line 2, the
4 following:

5 "() The corporation has evaluated the impact of
6 the construction, expansion, or acquisition of the
7 certified facility on other businesses in competition
8 with the facility. The corporation shall make a good
9 faith effort to identify those businesses within the
10 area in competition with the certified facility, and
11 the probability that the construction, expansion, or
12 acquisition of the certified facility will displace
13 employees of existing businesses."

14 2. By renumbering as necessary.

By KOENIGS of Mitchell

H-9241 FILED APRIL 16, 1998

*Hand 4-17-98
(P.1752)*

SENATE FILE 2415

H-9242

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 15, by inserting after line 20 the
4 following:

5 "() The agricultural products processor must not
6 have closed or substantially reduced the operations of
7 a facility in one area of the state and relocated
8 substantially the same facility elsewhere in the
9 state. However, this subparagraph does not prohibit
10 an agricultural products processor from expanding a
11 facility, if existing operations of a facility of a
12 similar nature in the state are not closed or
13 substantially reduced."

14 2. By renumbering as necessary.

By WEIGEL of Chickasaw

H-9242 FILED APRIL 16, 1998

*W/D 4/17/98
(P.1755)*

SENATE FILE 2415

H-9243

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 15, by inserting after line 20, the
4 following:

5 "() The agricultural products processor must
6 institute an active productivity and safety
7 improvement program at the certified facility.
8 Persons involved in management and labor at the
9 certified facility must participate in the program in
10 cooperation."

11 2. By renumbering as necessary.

By DOTZLER of Black Hawk

H-9243 FILED APRIL 16, 1998

W/D 4-17-98 (P.1751)

SENATE FILE 2415

H-9221

1 Amend Senate File 2415, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 15, by inserting after line 20 the
 4 following:
 5 "() The agricultural products processor must
 6 provide and pay at least eighty percent of the cost of
 7 a standard medical and dental insurance plan for all
 8 full-time employees working at the certified
 9 facility."

By REYNOLDS-KNIGHT of Van Buren

H-9221 FILED APRIL 16, 1998

*W/D 4-17-98**(P1751)*

SENATE FILE 2415

H-9240

1 Amend Senate File 2415, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 16, by inserting after line 9, the
 4 following:
 5 " . A corporation shall take all reasonable steps
 6 to ensure the safety and soundness of all financial
 7 assistance provided to an eligible person under this
 8 section, which shall include any necessary conditions
 9 incorporated in the agreement executed by the eligible
 10 person and the corporation. The conditions shall at
 11 least include all of the following:
 12 a. The eligible person must periodically deliver
 13 to the corporation information updating the financial
 14 status of the corporation, including an accounting of
 15 financing provided to the eligible person by the
 16 corporation.
 17 b. The corporation reserves the right to change or
 18 adjust the terms of financing, including a right to
 19 demand immediate repayment of a loan, if the
 20 corporation determines that the financial condition of
 21 the eligible person has changed or deteriorated to the
 22 point that a security interest held by the corporation
 23 is jeopardized or that the repayment of a loan in
 24 accordance with the terms of the agreement is in
 25 jeopardy.
 26 c. The corporation must demand the immediate
 27 repayment of financing provided to the eligible person
 28 by the corporation, if the eligible person is in
 29 violation of any substantive provision of this
 30 division or the agreement."

By HOLVECK of Polk
 KOENIGS of Mitchell
 CHURCHILL of Polk

H-9240 FILED APRIL 16, 1998

*Lost
 4-17-98
 (P1753)*

SENATE FILE 2415

H-9250

1 Amend the amendment, H-9196, to Senate File 2415,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 4, line 38, by striking the word
5 "construction" and inserting the following:
6 "construction,".

7 2. Page 5, line 29, by striking the word "The"
8 and inserting the following: "From moneys deposited
9 into the road use tax fund, the".

By HOUSER of Pottawattamie

H-9250 FILED APRIL 16, 1998

Adopted

4-17-98

(R 1745)

SENATE FILE 2415

H-9244

1 Amend Senate File 2415, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 15, by inserting after line 20 the
 4 following:
 5 "() The agricultural products processor must
 6 offer a pension or profit sharing plan to full-time
 7 employees employed at the certified facility."
 By TAYLOR of Linn

H-9244 FILED APRIL 16, 1998

W/D 4-17-98 (P. 1751)

SENATE FILE 2415

H-9245

1 Amend Senate File 2415, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 15, by inserting after line 20, the
 4 following:
 5 "() The agricultural products processor must pay
 6 a median wage for new full-time hourly nonmanagement
 7 production jobs of the certified facility of at least
 8 twelve dollars per hour indexed to 1998 dollars based
 9 on the gross national product implicit price deflator
 10 published by the bureau of economic analysis of the
 11 United States department of commerce or one hundred
 12 thirty percent of the average wage in the county in
 13 which the community is located, whichever is higher."
 14 2. By renumbering as necessary.
 By TAYLOR of Linn

H-9245 FILED APRIL 16, 1998

W/D 4-17-98 (P. 1751)

SENATE FILE 2415

H-9249

1 Amend Senate File 2415, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 15, by inserting after line 20 the
 4 following:
 5 "() The agricultural products processor must
 6 make a capital investment in the certified facility of
 7 at least twice the amount of financing invested in the
 8 certified facility by the corporation."
 By HOLVECK of Polk

H-9249 FILED APRIL 16, 1998

*Lost
4-17-98
(P. 1752)*

SENATE FILE 2415

H-9253

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 16, by inserting after line 6, the
4 following:

5 "____. A corporation shall not provide financing to
6 an eligible person to support an Iowa agricultural
7 industry venture, unless the eligible person has been
8 denied a loan for the venture by at least three
9 lenders engaged in the business of financing capital
10 ventures, by using customary lending standards and
11 practices."

By DIX of Butler

CHURCHILL of Polk

GARMAN of Story

NELSON of Marshall

H-9253 FILED APRIL 16, 1998

W/D 4-17-98 (P 1752)

SENATE FILE 2415

H-9254

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 16, by inserting after line 6, the
4 following:

5 "____. A corporation shall not provide financing to
6 an eligible person to support an Iowa agricultural
7 industry venture, unless the eligible person
8 demonstrates that the person cannot obtain a loan from
9 conventional sources of financing, after considering
10 the person's net worth, debt-to-asset ratio, debt
11 service coverage ratio, projected income, and
12 projected cash flow."

By DIX of Butler

GARMAN of Story

KREIMAN of Davis

BRUNKHORST of Bremer

H-9254 FILED APRIL 16, 1998

*Lost 4/17/98
(P 1753)*

SENATE FILE 2415

H-9255

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 17, by inserting before line 18, the
4 following:

5 "Sec. ____ . EFFECTIVENESS. The general assembly
6 recognizes that this Act places public moneys at risk,
7 by authorizing a private corporation to engage in
8 speculative ventures by using public funds, without
9 oversight customarily required for the appropriation
10 of state moneys to entities carrying out public
11 purposes. Therefore, this Act shall only become
12 effective if approved by a vote of at least three-
13 fifths of the members of both chambers of the general
14 assembly and signed by the governor."

15 2. By renumbering as necessary.

By HOLVECK of Polk

H-9255 FILED APRIL 16, 1998

Lost 4/17/98 (P1755)

SENATE FILE 2415

H-9251

1 Amend the amendment, H-9196, to Senate File 2415,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, by inserting after line 11, the
5 following:

6 "_____. A need exists to support forests and the
7 growth and maintenance of forests in this state,
8 including the production of agricultural commodities
9 which are forest products as provided in section
10 15E.202.""

11 2. Page 1, by inserting after line 19 the
12 following:

13 "_____. A need exists for additional sources of
14 financing for ventures designed to support Iowa
15 forests and the growth and maintenance of these
16 forests.""

17 3. Page 2, by inserting after line 38, the
18 following:

19 "_____. It is the intent of the general assembly and
20 the purpose of this division that the state encourage
21 ventures which support Iowa forests and the growth and
22 maintenance of these forests.""

23 4. Page 4, by inserting after line 26, the
24 following:

25 "_____. An Iowa agricultural industry finance
26 corporation may provide financing to resource
27 conservation and development areas, as authorized
28 under the federal Food and Agriculture Act of 1962, 16
29 U.S.C. § 3451 et seq., and reauthorized under the
30 federal Food, Agriculture, Conservation, and Trade Act
31 of 1990, 16 U.S.C. § 3459 et seq.

32 a. Each loan made shall be for a period not to
33 exceed ten years, shall not bear interest, and shall
34 be repayable to the corporation.

35 b. Each loan shall be made on a condition that the
36 moneys be provided to landowners on a cost-share
37 basis. The award of moneys shall not exceed fifty
38 percent of the estimated cost of completing a forestry
39 project or fifty percent of the actual cost, whichever
40 is less."

41 5. By renumbering and relettering as necessary.

By OSTERHAUS of Jackson

H-9251 FILED APRIL 16, 1998

A. adopted 4-17-98 (P. 1743)
B. W/D 4/17/98 (P. 1743)

SENATE FILE 2415

H-9260

1 Amend the amendment, H-9196, to Senate File 2415,
2 as amended, passed, and reprinted, by the Senate, as
3 follows:

4 1. By striking page 2, line 42, through page 3,
5 line 15, and inserting the following: "inserting the
6 following: "shall be appointed by an appointment
7 committee which shall be composed of all of the
8 following:

9 (1) The following persons who shall serve as
10 voting members, appointed by the governor:

11 (a) One person representing financial institutions
12 who is actively engaged in financial agricultural
13 businesses.

14 (b) One person representing agribusiness who is
15 actively engaged in agribusiness.

16 (c) One person representing agricultural
17 cooperative organizations who is a member of an
18 agricultural cooperative association as defined in
19 section 502.102.

20 (d) One person representing processors of
21 agricultural products who is actively engaged in
22 processing such products.

23 (e) One person representing marketers of
24 agricultural commodities or products who is actively
25 engaged in marketing agricultural commodities or
26 products.

27 (f) One person representing an organization
28 promoting producers of agricultural commodities
29 generally rather than a specific commodity, who is an
30 active member of such organization.

31 (g) Two persons representing organizations
32 promoting producers of specific commodities who are
33 members of the organizations.

34 (2) The following nonvoting, ex officio members:

35 (a) One person appointed by the governor
36 representing the governor's office

37 (b) Four members of the general assembly. The
38 members shall be two senators, appointed by the
39 president of the senate after consultation with the
40 majority leader of the senate and the minority leader
41 of the senate from their respective parties, and two
42 representatives appointed by the speaker of the house
43 after consultation with the majority leader of the
44 house of representatives and the minority leader of
45 the house of representatives from their respective
46 parties.

47 b. The members of the appointment committee shall
48 exercise due care to assure that persons appointed to
49 the initial board of directors have the requisite
50 financial experience necessary in order to carry out

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1 the duties of the corporation as established in this
2 division, including in areas related to agricultural
3 lending, commercial banking, and investment
4 management.

5 c. The members appointed to the appointment
6 committee shall be entitled to receive a per diem as
7 specified in section 7E.6 for each day spent in
8 performance of duties as members, and shall be
9 reimbursed for actual and necessary expenses incurred
10 in performance of duties as members of the appointment
11 committee.

12 d. Upon the election of the board of directors,
13 the terms of the members of the appointment committee
14 of directors shall expire.

15 4. The department shall assist the incorporators
16 and the appointment committee in".

17 2. Page 5, by inserting after line 44, the
18 following:

19 "Sec. ____ . APPOINTMENTS. The appointments made by
20 the governor to the appointment committee as provided
21 in section 15E.206 shall be made as soon as
22 practicable after July 1, 1998."

By CHURCHILL of Polk
DIX of Butler
GARMAN of Story

H-9260 FILED APRIL 17, 1998

Last 4/17/98
(P. 1745)

SENATE FILE 2415

H-9261

1 Amend the amendment, H-9196, to Senate File 2415,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, by inserting after line 11, the
5 following:

6 "_____. A need exists to support the production or
7 manufacturing of high value-added industries.""

8 2. Page 1, by inserting after line 19 the
9 following:

10 "_____. A need exists for additional sources of
11 financing for ventures designed to support the
12 production, processing, and marketing of high value
13 manufactured products by high value-added
14 industries.""

15 3. Page 1, by inserting after line 49, the
16 following:

17 "_____. "High value-added industry" means an
18 industry involved in the production or manufacturing
19 of value-added goods or services.""

20 4. Page 2, by inserting after line 22, the
21 following:

22 "_____. A high value-added industry located in this
23 state, if the industry provides for the creation and
24 retention of wealth in this state, and the industry is
25 involved in any of the following:

26 (1) Value-added agricultural products.

27 (2) Insurance and financial services.

28 (3) Plastics.

29 (4) Metals.

30 (5) Printing paper or packaging products.

31 (6) Drugs and pharmaceuticals.

32 (7) Software development.

33 (8) Instruments and measuring devices and medical
34 instruments.

35 (9) Recycling and waste management.

36 (10) Telecommunications.""

37 5. Page 2, by inserting after line 38, the
38 following:

39 "_____. It is the intent of the general assembly and
40 the purpose of this division that the state encourage
41 Iowa agricultural industry ventures which support the
42 production, processing, and marketing of high value
43 manufactured products.""

44 6. Page 4, by inserting after line 26, the
45 following:

46 "_____. A high value-added industry which qualifies
47 as an Iowa agricultural industry venture as provided
48 according to the terms of an agreement executed by the
49 high value-added industry and the corporation, if the
50 board of directors for the corporation determines that

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1 the industry would advance the intent and purposes set
2 out in section 15E.203."

3 7. By renumbering and relettering as necessary.

By CHURCHILL of Polk
KOENIGS of Mitchell
DIX of Butler
GARMAN of Story

HUSER of Polk
TAYLOR of Linn
HOLMES of Scott
JENKINS of Black Hawk

H-9261 FILED APRIL 17, 1998

W/D 4/17/98 (P.1746)

SENATE FILE 2415

H-9262

1 Amend Senate file 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 10, line 25, by striking the words
4 "twenty-five" and inserting the following: "twenty".

5 2. Page 10, line 26, by striking the word "four"
6 and inserting the following: "five".

By CHURCHILL of Polk
KOENIGS of Mitchell
DIX of Butler
GARMAN of Story
NELSON of Marshall

HUSER of Polk
TAYLOR of Linn
HOLMES of Scott
BRUNKHORST of Bremer

H-9262 FILED APRIL 17, 1998

*Lost 4/17/98
(P.1748)*

SENATE FILE 2415

H-9263

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 10, line 25, by striking the word
4 "twenty-five" and inserting the following: "ten".

5 2. Page 10, line 26, by striking the word "four"
6 and inserting the following: "ten".

By DIX of Butler
GARMAN of Story
NELSON of Marshall

HUSER of Polk
TAYLOR of Linn
BRUNKHORST of Bremer

H-9263 FILED APRIL 17, 1998

W/D

*4-17-98
(P.1748)*

SENATE FILE 2415

H-9264

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 11, by inserting after line 23 the
4 following:

5 "_____. A corporation shall not provide financing to
6 support an agricultural products processor which has
7 closed or substantially reduced the operations of an
8 agricultural products processing facility in one area
9 of the state and relocated substantially the same
10 facility elsewhere in the state. However, this
11 subsection does not prohibit an agricultural products
12 processor from expanding a facility, if existing
13 operations of a facility of a similar nature in the
14 state are not closed or substantially reduced."

15 2. By renumbering as necessary.

By WEIGEL of Chickasaw

H-9264 FILED APRIL 17, 1998

*Lost 4-17-98
(p. 1750)*

SENATE FILE 2415

H-9265

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 12, by striking lines 25 through 28 and
4 inserting the following: "articles shall provide that
5 an audit of the corporation must be conducted each
6 year for the preceding year by a certified public
7 accountant licensed pursuant to chapter 542C. The
8 auditor of state may audit the books and accounts of
9 the corporation at any time. The results of the
10 annual audit and any audit for the current year
11 conducted by the auditor of state shall be included as
12 part of the report."

By CHURCHILL of Polk

H-9265 FILED APRIL 17, 1998

*adapted
4-17-98 (p. 1751)*

SENATE FILE 2415

H-9266

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 16, line 20, by striking the word "may"
4 and inserting the word "shall".

5 2. Page 16, line 21, by inserting after the word
6 "division." the following: "The rules shall include a
7 provision prohibiting any person who receives
8 financial assistance from a corporation under this
9 division from receiving assistance from the community
10 economic betterment program account established under
11 section 15.320."

By HOLVECK of Polk

H-9266 FILED APRIL 17, 1998

*Lost 4-17-98
(p. 1754)*

SENATE FILE 2415

H-9269

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 16, by inserting after line 21 the
4 following:

5 "Sec. ____ . NEW SECTION. 15E.213 REAUTHORIZATION.
6 Any Iowa agricultural industry finance corporation
7 formed under this division shall be dissolved as
8 provided in chapter 490, division XIV, unless the
9 general assembly reauthorizes the corporation during a
10 session of a general assembly which convenes every
11 five years beginning when the 2003 Session of the
12 Eightieth General Assembly. If the general assembly
13 fails to reauthorize a corporation, the corporation
14 shall wind up the affairs of the corporation within
15 six months of the adjournment of that session of the
16 general assembly, as provided by rules adopted by the
17 department. The corporation shall provide for the
18 orderly liquidation of all assets, settle existing
19 liabilities, and transfer unobligated moneys to the
20 department for deposit into the road use tax fund.
21 This section shall not interfere with existing
22 contractual relationships executed by the corporation
23 and other parties, including eligible persons under
24 section 15E.210."

By KREIMAN of Davis

H-9269 FILED APRIL 17, 1998

Lost 4-17-98
(P. 1756)

SENATE FILE 2415

H-9270

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 9, by inserting after line 7 the
4 following:

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

By HOUSER of Pottawattamie
FALCK of Fayette

H-9270 FILED APRIL 17, 1998

Adapted
4-17-98
(P. 1747)

SENATE FILE 2415

H-9267

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 16, by inserting after line 9, the
4 following:

5 "___ . A corporation shall not provide financing to
6 an agricultural products processor until all known
7 required environmental regulations, permits, and
8 audits are met."

By MASCHER of Johnson

H-9267 FILED APRIL 17, 1998

*Lost 4-17-98
(R1754)*

SENATE FILE 2415

H-9268

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 11, by inserting after line 23 the
4 following:

5 "___ . A corporation shall not provide financing to
6 an eligible recipient to support an Iowa agricultural
7 industry venture, unless the board of directors for
8 the corporation determines that the eligible recipient
9 has a substantial equity position in the Iowa
10 agricultural industry venture."

By KREIMAN of Davis

H-9268 FILED APRIL 17, 1998

*Lost 4/17/98
(P. 1751)*

SENATE FILE 2415

E-9280

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 10, line 30, by striking the word
4 "either" and inserting the following: "any".

5 2. Page 11, by inserting after line 23 the
6 following:

7 "_____. An agricultural products processor, if all
8 of the following apply:

9 (1) The financing supports the construction,
10 expansion, or acquisition of an agricultural products
11 processing facility for slaughtering live animals or
12 receiving, buying, or soliciting live animals for
13 slaughter, the meat products of which are directly or
14 indirectly to be offered for resale or for public
15 consumption.

16 (2) The agricultural products processing facility
17 is located in a county with a population of at least
18 two hundred fifty thousand unless the location is west
19 of Iowa state highway 28 or west of a line extending
20 north from the point at which Iowa state highway 28
21 intersects with United States interstate 80."

22 3. By relettering as necessary.

By CHIODO of Polk
HUSER of Polk

H-9280 FILED APRIL 17, 1998

W/O 4-17-98 (P. 1755)

SENATE FILE 2415

E-9281

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 10, line 30, by striking the word
4 "either" and inserting the following: "any".

5 2. Page 11, by inserting after line 23 the
6 following:

7 "_____. An agricultural products processor, if all
8 of the following apply:

9 (1) The financing supports the construction,
10 expansion, or acquisition of an agricultural products
11 processing facility for slaughtering live animals or
12 receiving, buying, or soliciting live animals for
13 slaughter, the meat products of which are directly or
14 indirectly to be offered for resale or for public
15 consumption.

16 (2) The agricultural products processing facility
17 is located within a city having a population of one
18 hundred seventy-five thousand or more."

19 3. By relettering as necessary.

By HUSER of Polk
CHIODO of Polk
FALLON of Polk

H-9281 FILED APRIL 17, 1998

*Last
4-17-98
(P. 1755)*

SENATE FILE 2415

H-9272

- 1 Amend Senate File 2415, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 15, by inserting after line 20, the
 4 following:
 5 "() The agricultural products processor must
 6 consult with the Iowa waste reduction center at the
 7 university of northern Iowa to minimize the volume of
 8 waste products produced by a certified facility."

By SHOULTZ of Black Hawk

H-9272 FILED APRIL 17, 1998

Lost 4-17-98
(P.1752)

SENATE FILE 2415

H-9273

- 1 Amend the amendment H-9196, to Senate File 2415, as
 2 amended, passed, and reprinted by the Senate, as
 3 follows:
 4 1. Page 1, line 11, by inserting after the word
 5 "purposes." the following: "A need also exists to
 6 support biomass energy sources."

By WEIGEL of Chickasaw
VANDE HOEF of Osceola

H-9273 FILED APRIL 17, 1998

Adopted 4-17-98 (P.1746)

SENATE FILE 2415

H-9274

- 1 Amend Senate File 2415, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 7, by inserting after line 14 the
 4 following:
 5 " . A director of the corporation's board of
 6 directors shall not serve for more than seven
 7 consecutive years as a board director."
 8 2. By renumbering as necessary.

By SUKUP of Franklin

H-9274 FILED APRIL 17, 1998

Adopted
4-17-98 (P.1747)

SENATE FILE 2415

H-9275

- 1 Amend Senate File 2415, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 10, line 30, by striking the word
 4 "either" and inserting the following: "any".
 5 2. Page 11, by inserting after line 23 the
 6 following:
 7 " . A member of the economic development board,
 8 an employee of the department of economic development,
 9 an elected state official, or any director or other
 10 officer or an employee of the corporation."
 11 3. By relettering as necessary.

By HOLVECK of Polk

H-9275 FILED APRIL 17, 1998

Adopted 4-17-98 (P.1750)

HOUSE AMENDMENT TO
SENATE FILE 2415

S-5753

1 Amend Senate File 2415, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting after line 20, the
4 following:

5 "_____. A need exists to support the production of
6 agricultural commodities and the processing and
7 marketing of agricultural products which are produced
8 by using biological techniques for the development of
9 specialized plant or animal characteristics for
10 beneficial nutritional, commercial, or industrial
11 purposes. A need also exists to support biomass
12 energy sources.

13 _____. A need exists to support forests and the
14 growth and maintenance of forests in this state,
15 including the production of agricultural commodities
16 which are forest products as provided in section
17 15E.202."

18 2. Page 1, by inserting after line 34, the
19 following:

20 "_____. A need exists for additional sources of
21 financing for ventures designed to support the
22 production, processing, and marketing of high value
23 agricultural products using biological techniques
24 which create increasingly high value agricultural
25 products for consumers around the world."

26 3. Page 2, line 2, by striking the words
27 "agricultural producer-led" and inserting the
28 following: "Iowa agricultural industry".

29 4. Page 3, by striking lines 24 through 35 and
30 inserting the following:

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

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

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

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

40 (d) A beneficiary of a family trust.

41 (3) A networking farmers entity."

42 5. Page 4, by inserting after line 2, the
43 following:

44 "_____. "Biotechnology enterprise" means an
45 enterprise organized under the laws of this state
46 using biological techniques for the development of
47 specialized plant or animal characteristics for
48 beneficial nutritional, commercial, or industrial
49 purposes."

50 6. Page 4, by inserting after line 9 the

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Page 2

1 following:

2 "_____. "Family farm entity" means a family farm
3 corporation, family farm limited liability company,
4 family farm limited partnership, or family trust as
5 defined in section 9H.1."

6 7. Page 4, by striking lines 15 and 16, and
7 inserting the following:

8 "_____. "Iowa agricultural industry venture" means
9 an enterprise involving any of the following:

10 a. Agricultural producers investing in a new".

11 8. Page 4, line 21, by striking the word "a." and
12 inserting the following: "(1)".

13 9. Page 4, line 24, by striking the word "b." and
14 inserting the following: "(2)".

15 10. Page 4, line 26, by striking the word "c."
16 and inserting the following: "(3)".

17 11. Page 4, line 28, by striking the word "d."
18 and inserting the following: "(4)".

19 12. Page 4, by inserting after line 30 the
20 following:

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

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

27 (2) Increasing the value of agricultural
28 commodities."

29 13. Page 4, by inserting after line 34 the
30 following:

31 "_____. "Networking farmers entity" means the same
32 as defined in section 10.1, as enacted by 1998 Iowa
33 Acts, House File 2335."

34 14. Page 5, line 3, by striking the words "as
35 defined in section 10.1".

36 15. Page 6, by inserting after line 6 the
37 following:

38 "_____. It is the intent of the general assembly and
39 the purpose of this division that the state encourage
40 Iowa agricultural industry ventures which promote the
41 research and application of biological techniques for
42 the development of specialized plant or animal
43 characteristics for beneficial nutritional,
44 commercial, or industrial purposes."

45 16. Page 7, by inserting after line 14 the
46 following:

47 "_____. A director of the corporation's board of
48 directors shall not serve for more than seven
49 consecutive years as a board director."

50 17. Page 8, line 7, by inserting after the figure

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Page 3

1 "3." the following: "a."

2 18. Page 8, by striking lines 10 through 27 and
3 inserting the following: "shall be elected by the
4 members of an appointment committee. The members of
5 the appointment committee shall be appointed by the
6 economic development board. The initial board of
7 directors shall consist of seven members. The members
8 of the appointment committee shall include persons who
9 have an expertise in areas of banking, agricultural
10 lending, business development, agricultural production
11 and processing, seed and venture capital investment,
12 and other areas of expertise as deemed appropriate by
13 the interim board of directors.

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

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

25 d. The department shall assist the incorporators
26 and the appointment committee in".

27 19. Page 9, by inserting after line 7 the
28 following:

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

35 20. Page 10, line 13, by striking the words "may
36 loan all or part" and inserting the following: "shall
37 loan all".

38 21. Page 10, line 19, by inserting after the word
39 "desirable" the following: ", including any
40 restrictions on the subordination of the moneys
41 loaned".

42 22. Page 10, by inserting after line 28 the
43 following:

44 "____. The corporation shall not expend moneys
45 originating from the state, including moneys loaned
46 under this section, on political activity or on any
47 attempt to influence legislation."

48 23. Page 10, line 30, by striking the word
49 "either" and inserting the following: "any".

50 24. Page 11, by inserting after line 23 the

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1 following:

2 "_____. A member of the economic development board,
3 an employee of the department of economic development,
4 an elected state official, or any director or other
5 officer or an employee of the corporation."

6 25. Page 12, by striking lines 25 through 28 and
7 inserting the following: "articles shall provide that
8 an audit of the corporation must be conducted each
9 year for the preceding year by a certified public
10 accountant licensed pursuant to chapter 542C. The
11 auditor of state may audit the books and accounts of
12 the corporation at any time. The results of the
13 annual audit and any audit for the current year
14 conducted by the auditor of state shall be included as
15 part of the report."

16 26. Page 12, line 32, by inserting after the word
17 "corporation." the following: "If the eligible
18 recipient is an agricultural producer as provided in
19 section 15E.210, the agreement shall not be executed
20 unless the agricultural producer holds voting common
21 stock in the corporation equal to at least five
22 percent of the financing provided to the agricultural
23 producer pursuant to the agreement."

24 27. Page 13, by striking lines 11 and 12 and
25 inserting the following:

26 "_____. To the extent feasible and fiscally prudent,
27 the corporation must maintain a portfolio which is
28 diversified among the various types of agricultural
29 commodities and agribusiness.

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

35 28. Page 13, by striking lines 26 through 33.

36 29. Page 14, line 28, by striking the words
37 "general fund of the state" and inserting the
38 following: "road use tax fund created pursuant to
39 section 312.1".

40 30. Page 15, line 1, by striking the words "must
41 participate" and inserting the following:
42 "participating".

43 31. Page 15, by striking lines 11 and 12 and
44 inserting the following:

45 "b. An agricultural products processor which
46 participates as part of an Iowa".

47 32. By striking page 15, line 30, through page
48 16, line 1, and inserting the following: "produced in
49 this state. However, the corporation may provide
50 financing, if its board of directors determines that

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1 adequate supplies of the commodity are not available
2 for processing as otherwise required in this
3 subparagraph subdivision."

4 33. Page 16, by inserting before line 2 the
5 following:

6 "____. An agricultural biotechnology enterprise
7 which qualifies as an Iowa agricultural industry
8 venture as provided according to the terms of an
9 agreement executed by the agricultural biotechnology
10 enterprise and the corporation, if the board of
11 directors for the corporation determines that the
12 enterprise would advance the intent and purposes set
13 out in section 15E.203."

14 34. Page 16, by inserting after line 21 the
15 following:

16 "Sec. _____. Section 423.24, Code Supplement 1997,
17 is amended by inserting the following new unnumbered
18 paragraph before subsection 1:

19 NEW UNNUMBERED PARAGRAPH. Except as otherwise
20 provided in section 312.2, subsection 15, all revenues
21 derived from the use tax on motor vehicles, trailers,
22 and motor vehicle accessories and equipment as
23 collected pursuant to sections 423.7 and 423.7A shall
24 be deposited and credited to the road use tax fund and
25 shall be used exclusively for the construction,
26 maintenance, and supervision of public highways.

27 Sec. _____. Section 423.24, subsection 1, unnumbered
28 paragraph 1, Code Supplement 1997, is amended to read
29 as follows:

30 Eighty-percent-of Notwithstanding any provision of
31 this section which provides that all revenues derived
32 from the use tax on motor vehicles, trailers, and
33 motor vehicle accessories and equipment as collected
34 pursuant to section 423.7 and section 423.7A shall be
35 deposited and credited to the road use tax fund,
36 eighty percent of the revenues shall be deposited and
37 credited as follows:"

38 35. Page 17, by inserting after line 4 the
39 following:

40 "Sec. _____. Section 423.24, subsection 1, paragraph
41 c, Code Supplement 1997, is amended by striking the
42 paragraph.

43 Sec. _____. Section 423.24, subsection 2, Code
44 Supplement 1997, is amended to read as follows:

45 2. Twenty-percent-of Notwithstanding any other
46 provision of this section that provides that all
47 revenue derived from the use tax on motor vehicles,
48 trailers, and motor vehicle accessories and equipment
49 as collected pursuant to section 423.7 shall be
50 deposited and credited to the road use tax fund,

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1 twenty percent of the revenues shall be credited and
2 deposited as follows: one-half to the road use tax
3 fund and one-half to the primary road fund to be used
4 for the commercial and industrial highway network,
5 except to the extent that the department directs that
6 moneys are deposited in the highway safety patrol fund
7 created in section 80.41 to fund the appropriations
8 made from the highway safety patrol fund in accordance
9 with the provisions of section 80.41. The department
10 shall determine the amount of moneys to be credited
11 under this subsection to the highway safety patrol
12 fund and shall deposit that amount into the highway
13 safety patrol fund.

14 Sec. ____ . NEW SECTION. 423.24A REIMBURSEMENT FOR
15 THE PRIMARY ROAD FUND.

16 From moneys deposited into the road use tax fund,
17 the department may credit to the primary road fund any
18 amount of revenues derived from the use tax on motor
19 vehicles, trailers, and motor vehicles accessories and
20 equipment as collected pursuant to sections 423.7 and
21 423.7A to the extent necessary to reimburse that fund
22 for the expenditures not otherwise eligible to be made
23 from the primary road fund, which are made for
24 repairing, improving, and maintaining bridges over the
25 rivers bordering the state. Expenditures for those
26 portions of bridges within adjacent states may be
27 included when they are made pursuant to an agreement
28 entered into under section 313.63, 313A.34, or
29 314.10."

30 36. Page 17, by striking lines 18 through 23.

31 37. Page 17, by inserting before line 24 the
32 following:

33 "Sec. ____ . SEVERABILITY. If any provision of this
34 Act or the application of this Act to any person or
35 circumstance is held invalid, the invalidity shall not
36 affect other provisions or applications of this Act
37 which shall be given effect without the invalid
38 provision or application, and to this end the
39 provisions of this Act are severable."

40 38. By renumbering, relettering, or redesignating
41 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5753 FILED APRIL 17, 1998

Senate Concurred
4/20/98 (p.1384)

McLaren

SSB-2214

Appropriations

Succeeded By

SE/HF 2415

SENATE FILE
BY (PROPOSED COMMITTEE ON
APPROPRIATIONS BILL BY
CHAIRPERSON McLAREN)

Rife
Black
Rensink
Vilgack

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

A BILL FOR

1 An Act relating to agricultural finance and providing an
2 appropriation and taxation exemption, and providing an
3 effective date.

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

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1 Section 1. LEGISLATIVE FINDINGS. The general assembly
2 finds and declares all of the following:

3 1. a. The economic structure of agriculture, including
4 the production of agricultural commodities and the processing
5 and marketing of agricultural products, is undergoing a period
6 of rapid transformation.

7 (1) Longstanding government programs supporting prices for
8 agricultural commodities are being phased out, and new
9 technologies and management arrangements are creating large
10 scale integrated systems for producing and processing
11 agricultural commodities, and marketing agricultural processed
12 products.

13 (2) An increasing world demand exists for high quality
14 agricultural products caused by the simultaneous reduction of
15 trade barriers among nations and an increase in income of
16 those nations' populations.

17 b. The ability of this state and its agricultural
18 producers to adapt to these forces and their consequences at
19 the threshold of the twenty-first century will determine the
20 degree to which this state will prosper.

21 2. a. A need exists for additional sources of financing
22 for local agricultural producer-led ventures to expand
23 production, processing, and marketing of high value
24 agricultural products, to organize new business structures
25 within the state to carry out these ventures, and to market
26 and deliver increasingly high value agricultural products to
27 consumers around the world.

28 b. Traditional channels of financing and business
29 organization have not been adequate to address this need.

30 c. A trend toward corporate vertical integration in the
31 production, processing, and marketing of agricultural products
32 exists which requires agricultural producers to develop
33 innovative cooperative ventures in order to successfully
34 compete in a changing marketplace.

35 3. It is necessary for the state to authorize the

1 formation of private corporations in order to provide sources
2 of investment capital to encourage agricultural producer-led
3 ventures, including providing limited state financial support
4 necessary to stimulate these ventures.

5 4. All of the purposes stated in this Act are public
6 purposes. All of the following is necessary in order to
7 satisfy the intent and promote the purposes of this Act:

8 a. The authorization of the formation of Iowa agricultural
9 industry finance corporations as provided in this Act,
10 including authorizing persons to facilitate the formation of a
11 private corporation.

12 b. The use of public moneys to support activities
13 identified in this Act, including funding Iowa agricultural
14 industry finance corporations, making available loans to
15 initiate ventures as provided in this Act, and providing
16 incentives included in this Act for qualified Iowa
17 agricultural industry financing corporations.

18 DIVISION XIX

19 IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATIONS

20 Sec. 2. NEW SECTION. 15E.201 SHORT TITLE.

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

23 Sec. 3. NEW SECTION. 15E.202 DEFINITIONS.

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

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

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

34 b. Regularly and frequently make or take an important part
35 in making management decisions substantially contributing to

1 or affecting the success of the agricultural operation.

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

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

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

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

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

17 a. An individual actively engaged in agricultural
18 production.

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

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

24 (2) A family farm corporation as defined in section 9H.1,
25 if a shareholder and an officer, director, or employee of the
26 corporation is actively engaged in agricultural production.

27 (3) A family farm limited liability company as defined in
28 section 9H.1, if a member or manager of the family farm
29 limited liability company is actively engaged in agricultural
30 production.

31 6. "Agricultural product" means an agricultural commodity
32 or an agricultural processed product.

33 7. "Certified facility" means a facility used to process
34 agricultural products as certified by a corporation pursuant
35 to section 15E.210.

1 8. "Department" means the department of economic
2 development as created in section 15.101.

3 9. "Economic development board" means the economic
4 development board created pursuant to section 15.103.

5 10. "Iowa agricultural industry finance corporation" or
6 "corporation" means a corporation formed under this division.

7 11. "Iowa agricultural industry finance loan" means a loan
8 made to a qualified Iowa agricultural industry finance
9 corporation pursuant to section 15E.208.

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

14 13. "Qualified investor" means any of the following:

15 a. An agricultural producer.

16 b. A family farm corporation, family farm limited
17 liability company, family farm limited partnership, or family
18 trust, all as defined in section 9H.1.

19 c. A cooperative corporation organized under chapter 501.

20 d. A networking farmers entity as defined in section 10.1.

21 14. "Qualified Iowa agricultural industry finance
22 corporation" or "qualified corporation" means an Iowa
23 agricultural industry financing corporation which meets the
24 eligibility requirements of and is approved by the department
25 pursuant to section 15E.208.

26 Sec. 4. NEW SECTION. 15E.203 FINDINGS -- INTENT AND
27 PURPOSES.

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

32 2. It is the intent of the general assembly and purpose of
33 this division that this state capture the greatest benefit
34 from opportunities created during this period, by encouraging
35 local agricultural producer-led ventures to expand production

1 and processing of high value agricultural products, including
2 agricultural processed products, to organize new business
3 structures within the state to carry out these ventures, and
4 to market and deliver increasingly high value agricultural
5 products to consumers around the world. In carrying out this
6 purpose, state resources provided by this Act shall be used to
7 assure all of the following:

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

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

13 c. That agricultural producers in this state are provided
14 with an opportunity to acquire a majority ownership interest
15 in agricultural production, processing, and marketing ventures
16 promoted under this division.

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

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

24 Sec. 5. NEW SECTION. 15E.204 IOWA AGRICULTURAL INDUSTRY
25 FINANCE CORPORATIONS -- SCOPE OF POWERS AND DUTIES.

26 1. An Iowa agricultural industry finance corporation
27 formed under this division shall be subject to and have the
28 powers and privileges conferred by provisions of chapter 490,
29 unless otherwise limited by or inconsistent with the
30 provisions of this division.

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

32 a. That a limited number of Iowa agricultural industry
33 finance corporations are authorized to be formed. However,
34 the department may strictly interpret and apply the
35 requirements of this division in determining whether a

1 corporation is a qualified corporation under section 15E.208.

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

5 c. That a corporation is restricted from holding,
6 acquiring, or transferring financial or security instruments,
7 including but not limited to a security regulated under
8 chapter 502, money, accounts, and chattel paper under chapter
9 554, security interests under chapter 554, or a mortgage or
10 deed of trust under chapter 654.

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

20 Sec. 6. NEW SECTION. 15E.205 IOWA AGRICULTURAL INDUSTRY
21 FINANCE CORPORATIONS -- REQUIREMENTS.

22 1. A corporation incorporated under chapter 490 is an Iowa
23 agricultural industry finance corporation, if the corporation
24 complies with the requirements of this section and section
25 15E.206. In addition to the other requirements for a
26 corporation organized under chapter 490, all of the following
27 shall apply:

28 a. At least fifty-one percent of the corporation's common
29 stock must be held by agricultural producers. At least fifty-
30 one percent of the corporation's voting stock must be held by
31 agricultural producers.

32 b. The purpose of the corporation must be limited to
33 providing financing to eligible persons under section 15E.210
34 who are engaging in ventures limited to establishing a
35 cooperative structure in which agricultural producers produce

1 agricultural commodities for processing and marketing as
2 agricultural processed products.

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

5 Sec. 7. NEW SECTION. 15E.206 FORMATION OF AN IOWA
6 AGRICULTURAL INDUSTRY FINANCE CORPORATION.

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

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

18 a. The chairperson of the economic development board or a
19 designee of the chairperson.

20 b. The director of the department of economic development,
21 or a designee of the director.

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

24 3. After incorporation, such a corporation shall be
25 organized by an initial board of directors as provided in
26 chapter 490, division II. The initial board of directors
27 shall be elected as follows:

28 a. An interim board of directors for the corporation,
29 composed of the members of the economic development board,
30 shall appoint a nominating committee. The members of the
31 nominating committee shall include persons who have an
32 expertise in areas of banking, agricultural lending, business
33 development, agricultural production and processing, seed and
34 venture capital investment, and other areas of expertise as
35 deemed appropriate by the interim board of directors.

1 b. Members of the interim board of directors and members
2 of the nominating committee shall hold a joint meeting to
3 elect five initial board of directors from the list of
4 candidates nominated by the nominating committee.

5 c. Upon the election of the initial board of directors,
6 the terms of the interim board of directors and the nominating
7 committee shall expire.

8 4. The department shall assist the incorporators, the
9 interim board of directors, and the nominating committee in
10 any manner determined necessary and appropriate by the
11 economic development board and the director of the department
12 in order to administer this section.

13 Sec. 8. NEW SECTION. 15E.207 IOWA AGRICULTURAL INDUSTRY
14 FINANCE CORPORATIONS -- GUIDING PRINCIPLES.

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

18 1. The corporation must exercise diligence and care in the
19 selection of persons and projects to receive financing as
20 provided in section 15E.210. The corporation must apply
21 customary and acceptable business and lending standards and
22 practices in selecting persons and projects designated for
23 financing and managing agreements under which financing is
24 provided.

25 2. Except as otherwise provided in this section, the
26 corporation shall not become an owner of real or depreciable
27 property, including agricultural land, as provided in section
28 9H.4. However, this subsection shall not preclude the
29 corporation from holding an interest in real or depreciable
30 property if any of the following apply:

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

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

1 following apply:

2 (1) The interest is a bona fide encumbrance taken for
3 purposes of security in connection with providing financing
4 under section 15E.210.

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

7 (a) Devise or bequest.

8 (b) Court order.

9 (c) Dissolution under chapter 490, division XIV.

10 (d) Order in bankruptcy.

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

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

21 Sec. 9. NEW SECTION. 15E.208 QUALIFIED CORPORATIONS --
22 IOWA AGRICULTURAL INDUSTRY FINANCE LOANS.

23 1. The department may award an Iowa agricultural industry
24 finance loan to an Iowa agricultural industry finance
25 corporation, if the department in its discretion determines
26 that the corporation is qualified under this section.

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

30 3. The department may loan all or part of the amounts
31 available to the department pursuant to this division to a
32 qualified corporation with provisions and restrictions as
33 determined by the department and contained in a loan agreement
34 executed between the department and the qualified corporation.

35 a. The department may attach conditions to the granting of

1 the loan as it deems desirable. The attorney general shall
2 assist the department in drafting loan agreements and in
3 collecting on the loan agreement.

4 b. The loan shall be repayable upon terms and conditions
5 negotiated by the parties. However, the loan's repayment
6 schedule shall not exceed twenty-five years from the date that
7 the loan is issued.

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

11 a. The corporation must only provide financing to persons
12 and ventures eligible under section 15E.210.

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

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

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

27 (1) The capitalization of the corporation.

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

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

1 knowledgeable in financing new agricultural industries.

2 (4) The manner of oversight required by the department or
3 the auditor of state. The articles must provide that the
4 corporation shall submit a report to the governor, the general
5 assembly, and the department. The report shall provide a
6 description of the corporation's activities and a summary of
7 its finances, including financial awards. The report shall be
8 submitted not later than January 10 of each year. The
9 articles shall provide for an annual audit by the auditor of
10 state or a certified public accountant licensed pursuant to
11 chapter 542C. A summary of the audit shall be included in the
12 report.

13 (5) The execution of an agreement between the corporation
14 and an eligible recipient as required by the department as a
15 condition of providing financing, in which the eligible
16 recipient agrees to become a shareholder in the corporation.
17 An agreement shall at least provide all of the following:

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

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

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

28 e. A portfolio which is diversified among all types of
29 agricultural commodities must be maintained.

30 f. The corporation may only be terminated by the following
31 methods, unless approved by the department:

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

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

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

8 The corporation may deviate from a requirement in this
 9 subsection, upon approval by the department for good cause and
 10 upon the affirmative vote of a majority of the corporation's
 11 board of directors.

12 5. The department shall provide for the default of the
 13 loan if the qualified corporation does any of the following:

14 a. Violates a provision of the articles of incorporation
 15 or an amendment to the articles of incorporation that is
 16 required by this division which violation is not approved by
 17 the department.

18 b. Violates the terms of the loan agreement executed
 19 between the department and the corporation, which violation is
 20 not approved by the department.

21 c. Fails to comply with the requirements of section
 22 15E.205.

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

24 (1) The transaction involves any of the following:

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

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

34 (2) The surviving entity of a merger or share exchange, or
 35 the entity acquiring the assets of the corporation fails to

1 meet the requirements of section 15E.205.

2 6. Moneys repaid or collected by the department under this
3 section shall be deposited into the general fund of the state.

4 Sec. 10. NEW SECTION. 15E.209 TAXATION EXEMPTION.

5 Dividends received by the shareholders of a qualified Iowa
6 agricultural industry finance corporation shall be exempt from
7 Iowa income tax under chapter 422, if more than fifty percent
8 of the equity of the corporation is attributable to an Iowa
9 agricultural industry finance loan as provided in section
10 15E.208.

11 Sec. 11. NEW SECTION. 15E.210 FINANCING PROVIDED BY AN
12 IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATION.

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

18 a. An agricultural producer under all of the following
19 conditions:

20 (1) The agricultural producer must be a resident of this
21 state at the time the financing is provided. If the person is
22 not an individual, then a partner of the general partnership,
23 shareholder of the family farm corporation, or member of the
24 family farm limited liability company must reside in this
25 state at the time the financial assistance is awarded.

26 (2) The agricultural producer must participate in an Iowa
27 agricultural industry venture as provided according to the
28 terms of an agreement executed by the agricultural producer
29 and the corporation. The agreement may require that the
30 agricultural producer acquire an interest in an agricultural
31 products processor certified by the corporation, or enter into
32 a marketing agreement under which the agricultural producer
33 agrees to market an amount of the agricultural producer's
34 agricultural commodities to the agricultural products
35 processor.

1 b. The corporation may provide financing to an
 2 agricultural products processor as part of an Iowa
 3 agricultural industry venture as provided according to the
 4 terms of an agreement executed by the agricultural products
 5 processor and the corporation. The corporation shall only
 6 provide financing if the venture involves the construction or
 7 acquisition of an agricultural products processing facility as
 8 certified by the corporation and if all of the following
 9 apply:

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

11 (2) Either of the following apply:

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

18 (b) More than fifty percent of the commodities processed
 19 by the certified facility during any twelve-month period is
 20 purchased from agricultural producers who are residents of
 21 this state at the time that the financing is provided. If the
 22 agricultural producer is not an individual, then a partner of
 23 the general partnership, shareholder of the family farm
 24 corporation, or member of the family farm limited liability
 25 company must reside in this state at the time the financing is
 26 provided.

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

32 3. A corporation shall not provide financing to support
 33 any of the following:

34 a. A person who is either of the following:

35 (1) An agricultural producer, if any of the following

1 applies:

2 (a) The agricultural producer is a party to a pending
3 action for a violation of chapter 455B concerning a
4 confinement feeding operation in which the person has a
5 controlling interest and the action is commenced in district
6 court by the attorney general.

7 (b) The agricultural producer or a confinement feeding
8 operation in which the agricultural producer holds a
9 controlling interest is classified as a habitual violator
10 under section 455B.191.

11 (2) An agricultural products processor, if the processor
12 or a person owning a controlling interest in the processor has
13 demonstrated, within the most recent consecutive three-year
14 period prior to the application for financing, a continuous
15 and flagrant disregard for the health and safety of its
16 employees or the quality of the environment. Violations of
17 environmental protection statutes, rules, or regulations shall
18 be reported for the most recent five-year period prior to
19 application. Evidence of such disregard shall include a
20 history of serious or uncorrected violations of state or
21 federal law protecting occupational health and safety or the
22 environment, including but not limited to serious or
23 uncorrected violations of occupational safety and health
24 standards enforced by the division of labor services of the
25 department of employment services pursuant to chapter 84A, or
26 rules enforced by the environmental protection division of the
27 department of natural resources pursuant to chapter 455B.

28 b. The refinancing of an outstanding debt or other
29 obligation, regardless of whether the original financing was
30 provided by a corporation.

31 Sec. 12. NEW SECTION. 15E.211 OBLIGATIONS.

32 The obligations of the corporation are not obligations of
33 this state or any political subdivision of this state within
34 the meaning of any constitutional or statutory debt
35 limitations, but are obligations of the corporation payable

1 solely and only from the corporation's funds. The corporation
2 shall not pledge the credit or taxing power of this state or
3 any political subdivision of this state or make its debts
4 payable out of any moneys except for those of the corporation.

5 Sec. 13. NEW SECTION. 15E.212 RULES.

6 The department may adopt rules pursuant to chapter 17A
7 necessary to administer this division.

8 Sec. 14. Section 423.24, subsection 1, paragraph a,
9 subparagraph (2), Code Supplement 1997, is amended to read as
10 follows:

11 (2) ~~Beginning January 1, 1996, through December 31, 1997,~~
12 ~~two million five hundred thousand dollars per quarter shall be~~
13 ~~deposited into and credited to the Iowa comprehensive~~
14 ~~petroleum underground storage tank marketability fund created~~
15 ~~in section 455G.21.~~ Beginning January 1, 1998, through
16 December 31, 2002 June 30, 1999, four million two hundred
17 fifty thousand dollars per quarter shall be ~~deposited into and~~
18 credited to the ~~Iowa comprehensive petroleum underground~~
19 ~~storage tank marketability fund created in section 455G.21~~
20 department of economic development. However, not more than a
21 total of twenty-five million dollars shall be credited to the
22 department. The moneys so deposited credited are a continuing
23 appropriation to be expended ~~in accordance with section~~
24 455G.21 to carry out the provisions of section 15E.208, and
25 the moneys shall not be used for other purposes.

26 Sec. 15. 1995 Iowa Acts, chapter 215, section 29,
27 subsection 1, is amended to read as follows:

28 1. Section 423.24, subsection 1, paragraph "a",
29 subparagraph (2) is repealed on ~~January 1, 2003~~ July 1, 1999.

30 Sec. 16. TRANSFER AND RETROACTIVITY. Moneys deposited in
31 the Iowa comprehensive petroleum underground storage tank
32 marketability fund created in section 455G.21 derived from the
33 use tax as provided in section 423.24, Code Supplement 1997,
34 from January 1, 1998, until July 1, 1998, shall be transferred
35 to the department of economic development for use as provided

1 in section 15E.208, as enacted in this Act. This section
2 shall be retroactively applicable on and after January 1,
3 1998.

4 Sec. 17. DIRECTIONS TO CODE EDITOR. Section 15E.202,
5 subsection 13, paragraph "d", as enacted in this Act, is
6 amended by striking the paragraph, and the Code editor is
7 directed to eliminate the paragraph, if 1998 Iowa Acts, House
8 File 2335, is not enacted by the Seventy-seventh General
9 Assembly, 1998 Session.

10 Sec. 18. EFFECTIVE DATE. Section 16 of this Act, being
11 deemed of immediate importance, takes effect upon enactment.

12 EXPLANATION

13 This bill relates to agricultural finance. Major sections
14 of the bill provide for all of the following:

15 Code section 1 is not codified. It provides for
16 legislative findings by the general assembly. The bill
17 provides that the general assembly finds that the economic
18 structure of agricultural production is undergoing a period of
19 rapid transformation; there is an increasing world demand for
20 high quality agricultural products; there is a need for
21 additional sources of financing for local agricultural
22 producer-led ventures to expand production, processing, and
23 marketing of high value agricultural products; and it is
24 necessary for the state to authorize the formation of private
25 corporations in order to provide sources of investment capital
26 to encourage agricultural producer-led ventures.

27 The bill establishes a new division within chapter 15E
28 which authorizes the establishment of Iowa agricultural
29 industry finance corporations.

30 Code section 15E.201 provides that the division shall be
31 known and may be cited as the "Iowa Agricultural Industry
32 Finance Act".

33 Code section 15E.202 provides definitions. Generally, the
34 words and phrases used in the division have the same meaning
35 as used in chapter 490, the "Iowa Business Corporation Act".

1 The section also provides a number of additional definitions
2 used in the division, including definitions for "actively
3 engaged in agriculture", and "agricultural producer".

4 Code section 15E.203 provides for findings, intent, and
5 purposes of the division. The section provides that it is the
6 intent of the general assembly that this state capture the
7 greatest benefit from opportunities created during the period
8 of transition noted in the findings, by encouraging local
9 agricultural producer-led ventures to expand production and
10 processing of high value agricultural products. The section
11 provides that it is the intention of the general assembly that
12 the majority of the wealth created by Iowa agricultural
13 productivity is retained in this state; that employment in the
14 production, processing, and marketing of agricultural products
15 is increased in this state; and that agricultural producers in
16 this state be provided with an opportunity to acquire a
17 majority ownership interest in agricultural production,
18 processing, and marketing ventures.

19 Code section 15E.204 provides for the powers of Iowa
20 agricultural industry finance corporations. The section
21 provides that generally, these corporations have the same
22 powers and privileges conferred by provisions of Code chapter
23 490. The section provides that the division does not limit
24 the number of Iowa agricultural industry finance corporations
25 authorized to be established and that a corporation not be
26 restricted from holding financial or security instruments.
27 The section also provides that an Iowa agricultural industry
28 finance corporation is a private business corporation and not
29 a public corporation or instrumentality of the state.

30 Code section 15E.205 provides that an entity incorporated
31 under Code chapter 490 is an Iowa agricultural industry
32 finance corporation, if the corporation complies with certain
33 requirements. The section provides that at least 51 percent
34 of the corporation's common stock must be held by agricultural
35 producers, and at least 51 percent of the corporation's voting

1 stock must be held by agricultural producers. In addition,
2 the purpose of the corporation must be limited to providing
3 financing to eligible persons who are engaging in ventures in
4 which agricultural producers produce agricultural commodities
5 for processing and marketing as agricultural processed
6 products.

7 Code section 15E.206 provides for the formation of model
8 Iowa agricultural industry finance corporations in order to
9 perfect the manner in which such corporations are formed and
10 operate. The section provides for incorporating the
11 corporation and the election of an initial board of directors,
12 with assistance from the department of economic development.

13 Code section 15E.207 provides that in carrying out its
14 duties and exercising its powers, an Iowa agricultural
15 industry finance corporation must be guided by several
16 principles. It must exercise diligence and care in the
17 selection of persons and projects to receive financing, and
18 with limited exceptions, it cannot hold an interest in real or
19 depreciable property.

20 Code section 15E.208 provides that the department of
21 economic development may award an Iowa agricultural industry
22 finance loan to an Iowa agricultural industry finance
23 corporation, if the department in its discretion determines
24 that the corporation is qualified. The department may attach
25 conditions to the granting of the loan as it deems desirable.
26 The loan is repayable upon terms and conditions negotiated by
27 the parties. However, the loan's repayment schedule shall not
28 exceed 25 years from the date that the loan is issued. The
29 section places a number of restrictions upon corporations who
30 are eligible for assistance. The corporation must provide for
31 public oversight and its articles of incorporation must comply
32 with requirements established by the department relating to
33 the capacity and integrity of the corporation to carry out the
34 purposes of this division of Code chapter 15E. The section
35 also requires a default of a loan if a corporation fails to

1 comply with requirements contained in the division or by the
2 department, or is involved in winding up its affairs pursuant
3 to merger or sale.

4 Code section 15E.209 provides that dividends received by
5 the shareholders of a qualified Iowa agricultural industry
6 finance corporation are exempt from Iowa income tax under Code
7 chapter 422, if more than 50 percent of the equity of the
8 corporation is attributable to an Iowa agricultural industry
9 finance loan.

10 Code section 15E.210 provides requirements for a
11 corporation extending financing to agricultural producers.
12 The agricultural producer must be a resident of this state at
13 the time the financing is provided. The agricultural producer
14 must participate in an Iowa agricultural industry venture as
15 provided according to the terms of an agreement executed by
16 the agricultural producer and the corporation. The
17 corporation may also provide financing to an agricultural
18 products processor as part of an Iowa agricultural industry
19 venture. The corporation shall only provide financing if the
20 venture involves the construction or acquisition of an
21 agricultural products processing facility as certified by the
22 corporation in which agricultural producers are involved. The
23 section provides that financing may be in the form of a loan,
24 loan guarantee, sale and purchase of mortgage instruments for
25 eligible recipients, or other similar forms of financing.

26 Code section 15E.211 provides that the obligations of the
27 corporation are not obligations of this state or any political
28 subdivision of this state.

29 Code section 15E.212 authorizes the department of economic
30 development to adopt rules under chapter 17A necessary to
31 administer the division.

32 Code section 423.24 is amended. Code section 423.24
33 allocates use tax moneys to the Iowa comprehensive petroleum
34 underground storage tank marketability fund through December
35 31, 2002. This section provides that \$4,250,000 per quarter

1 from the use tax shall be credited to the department for
2 purposes of supporting the bill to a maximum of \$25 million.
3 Another section in the bill provides that moneys deposited in
4 the Iowa comprehensive petroleum underground storage tank
5 marketability fund from January 1, 1998, until the effective
6 date of this bill must be transferred to the department. That
7 section of the bill is made effective upon enactment.

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SENATE FILE 2415

AN ACT

RELATING TO AGRICULTURAL FINANCE, PROVIDING AN APPROPRIATION, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. LEGISLATIVE FINDINGS. The general assembly finds and declares all of the following:

1. a. The economic structure of agriculture, including the production of agricultural commodities and the processing and marketing of agricultural products, is undergoing a period of rapid transformation.

(1) Longstanding government programs supporting prices for agricultural commodities are being phased out, and new technologies and management arrangements are creating large scale integrated systems for producing and processing agricultural commodities, and marketing agricultural processed products.

(2) An increasing world demand exists for high quality agricultural products caused by the simultaneous reduction of trade barriers among nations and an increase in income of those nations' populations.

b. The ability of this state and its agricultural producers to adapt to these forces and their consequences at the threshold of the twenty-first century will determine the degree to which this state will prosper.

2. A need exists to support the production of agricultural commodities and the processing and marketing of agricultural

products which are produced by using biological techniques for the development of specialized plant or animal characteristics for beneficial nutritional, commercial, or industrial purposes. A need also exists to support biomass energy sources.

3. A need exists to support forests and the growth and maintenance of forests in this state, including the production of agricultural commodities which are forest products as provided in section 15E.202.

4. a. A need exists for additional sources of financing for local agricultural producer-led ventures to expand production, processing, and marketing of high value agricultural products, to organize new business structures within the state to carry out these ventures, and to market and deliver increasingly high value agricultural products to consumers around the world.

b. Traditional channels of financing and business organization have not been adequate to address this need.

c. A trend toward corporate vertical integration in the production, processing, and marketing of agricultural products exists which requires agricultural producers to develop innovative cooperative ventures in order to successfully compete in a changing marketplace.

5. A need exists for additional sources of financing for ventures designed to support the production, processing, and marketing of high value agricultural products using biological techniques which create increasingly high value agricultural products for consumers around the world.

6. It is necessary for the state to authorize the formation of private corporations in order to provide sources of investment capital to encourage Iowa agricultural industry ventures, including providing limited state financial support necessary to stimulate these ventures.

7. All of the purposes stated in this Act are public purposes. All of the following is necessary in order to satisfy the intent and promote the purposes of this Act:

a. The authorization of the formation of Iowa agricultural industry finance corporations as provided in this Act, including authorizing persons to facilitate the formation of a private corporation.

b. The use of public moneys to support activities identified in this Act, including funding Iowa agricultural industry finance corporations, making available loans to initiate ventures as provided in this Act, and providing incentives included in this Act for qualified Iowa agricultural industry financing corporations.

DIVISION XIX

IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATIONS

Sec. 2. NEW SECTION. 15E.201 SHORT TITLE.

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

Sec. 3. NEW SECTION. 15E.202 DEFINITIONS.

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

1. "Actively engaged in agriculture" means to do any of the following:
 - a. Inspect agricultural operations periodically and furnish at least half the direct cost of the operations.
 - b. Regularly and frequently make or take an important part in making management decisions substantially contributing to or affecting the success of the agricultural operation.
 - c. Perform physical work which significantly contributes to agricultural operation.
2. "Agricultural commodity" means any unprocessed agricultural product, including livestock as defined in section 717.1, agricultural crops, and forestry products grown, raised, produced, or fed in this state for sale in commercial channels.

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

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

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

- a. An individual actively engaged in agricultural production.
 - b. A person other than an individual, if the person is any of the following:
 - (1) A general partnership in which all the partners are natural persons, and one of the partners is actively engaged in agricultural production.
 - (2) A family farm entity if any of the following individuals is actively engaged in agricultural production:
 - (a) A shareholder and an officer, director, or employee of a family farm corporation.
 - (b) A member or manager of a family farm limited liability company.
 - (c) A general partner of a family farm limited partnership.
 - (d) A beneficiary of a family trust.
 - (3) A networking farmers entity.
6. "Agricultural product" means an agricultural commodity or an agricultural processed product.
7. "Biotechnology enterprise" means an enterprise organized under the laws of this state using biological techniques for the development of specialized plant or animal characteristics for beneficial nutritional, commercial, or industrial purposes.
8. "Certified facility" means a facility used to process agricultural products as certified by a corporation pursuant to section 15E.210.

9. "Department" means the department of economic development as created in section 15.101.

10. "Economic development board" means the economic development board created pursuant to section 15.103.

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

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

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

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

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

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

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

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

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

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

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

(2) Increasing the value of agricultural commodities.

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

16. "Networking farmers entity" means the same as defined in section 10.1, as enacted by 1998 Iowa Acts, House File 2335.

17. "Qualified investor" means any of the following:

a. An agricultural producer.

b. A cooperative corporation organized under chapter 501.

c. A networking farmers entity.

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

Sec. 4. NEW SECTION. 15E.203 FINDINGS -- INTENT AND PURPOSES.

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

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

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

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

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

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

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

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

Sec. 5. NEW SECTION. 15E.204 IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATIONS -- SCOPE OF POWERS AND DUTIES.

1. An Iowa agricultural industry finance corporation formed under this division shall be subject to and have the powers and privileges conferred by provisions of chapter 490, unless otherwise limited by or inconsistent with the provisions of this division.

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

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

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

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

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

Sec. 6. NEW SECTION. 15E.205 IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATIONS -- REQUIREMENTS.

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

a. At least fifty-one percent of the corporation's common stock must be held by agricultural producers. At least fifty-one percent of the corporation's voting stock must be held by agricultural producers.

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

c. The purpose of the corporation must be limited to providing financing to eligible persons under section 15E.210 who are engaging in Iowa agricultural industry ventures limited to establishing a business structure in which agricultural producers produce agricultural commodities for processing and marketing as agricultural processed products.

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

Sec. 7. NEW SECTION. 15E.206 FORMATION OF AN IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATION.

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

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

- a. The chairperson of the economic development board or a designee of the chairperson.
- b. The director of the department of economic development, or a designee of the director.
- c. The secretary of agriculture or a designee of the secretary.

3. a. After incorporation, such a corporation shall be organized by an initial board of directors as provided in chapter 490, division II. The initial board of directors shall be elected by the members of an appointment committee. The members of the appointment committee shall be appointed by the economic development board. The initial board of directors shall consist of seven members. The members of the appointment committee shall include persons who have an expertise in areas of banking, agricultural lending, business development, agricultural production and processing, seed and venture capital investment, and other areas of expertise as deemed appropriate by the interim board of directors.

b. The members of the appointment committee shall exercise due care to assure that persons appointed to the initial board of directors have the requisite financial experience necessary

in order to carry out the duties of the corporation as established in this division, including in areas related to agricultural lending, commercial banking, and investment management.

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

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

Sec. 8. NEW SECTION. 15E.207 IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATIONS -- GUIDING PRINCIPLES.

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

1. The corporation must exercise diligence and care in the selection of persons and projects to receive financing as provided in section 15E.210. The corporation must apply customary and acceptable business and lending standards and practices in selecting persons and projects designated for financing and managing agreements under which financing is provided.

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

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

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

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

(1) The interest is a bona fide encumbrance taken for purposes of security in connection with providing financing under section 15E.210.

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

(a) Devise or bequest.

(b) Court order.

(c) Dissolution under chapter 490, division XIV.

(d) Order in bankruptcy.

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

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

Sec. 9. NEW SECTION. 15E.208 QUALIFIED CORPORATIONS -- IOWA AGRICULTURAL INDUSTRY FINANCE LOANS.

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

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

3. The department shall loan all of the amounts available to the department pursuant to this division to a qualified

corporation with provisions and restrictions as determined by the department and contained in a loan agreement executed between the department and the qualified corporation.

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

b. The loan shall be repayable upon terms and conditions negotiated by the parties. The repayment period shall begin six years following the date when the loan is awarded and end twenty-five years after the date that the repayment period begins. At least four percent of the amount due shall be paid each year to the department. The corporation shall not be subject to a prepayment penalty.

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

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

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

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

(2) The agricultural producer or a confinement feeding operation in which the agricultural producer holds a controlling interest is classified as a habitual violator under section 455B.191.

b. An agricultural products processor, if the processor or a person owning a controlling interest in the processor has demonstrated, within the most recent consecutive three-year period prior to the application for financing, a continuous and flagrant disregard for the health and safety of its

employees or the quality of the environment. Violations of environmental protection statutes, rules, or regulations shall be reported for the most recent five-year period prior to application. Evidence of such disregard shall include a history of serious or uncorrected violations of state or federal law protecting occupational health and safety or the environment, including but not limited to serious or uncorrected violations of occupational safety and health standards enforced by the division of labor services of the department of employment services pursuant to chapter 84A, or rules enforced by the environmental protection division of the department of natural resources pursuant to chapter 455B.

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

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

a. The corporation must only provide financing to persons and ventures eligible under section 15E.210.

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

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

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

(1) The capitalization of the corporation.

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

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

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

(5) The execution of an agreement between the corporation and an eligible recipient as required by the department as a condition of providing financing, in which the eligible recipient agrees to become a shareholder in the corporation. If the eligible recipient is an agricultural producer as provided in section 15E.210, the agreement shall not be executed unless the agricultural producer holds voting common stock in the corporation equal to at least five percent of the financing provided to the agricultural producer pursuant to the agreement. The agreement shall be for a period of not less than ten years. An agreement shall at least provide all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The transaction involves any of the following:

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

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

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

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

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

Sec. 10. NEW SECTION. 15E.210 FINANCING PROVIDED BY AN IOWA AGRICULTURAL INDUSTRY FINANCE CORPORATION.

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

a. An agricultural producer participating in an Iowa agricultural industry venture as provided according to the terms of an agreement executed by the agricultural producer and the corporation. The agreement may require that the

agricultural producer acquire an interest in an agricultural products processor certified by the corporation, or enter into a marketing agreement under which the agricultural producer agrees to market an amount of the agricultural producer's agricultural commodities to the agricultural products processor.

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

- (1) The certified facility must be located in this state.
- (2) Either of the following apply:

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

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

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

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

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

Sec. 11. NEW SECTION. 15E.211 OBLIGATIONS.

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

Sec. 12. NEW SECTION. 15E.212 RULES.

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

Sec. 13. Section 423.24, Code Supplement 1997, is amended by inserting the following new unnumbered paragraph before subsection 1:

NEW UNNUMBERED PARAGRAPH. Except as otherwise provided in section 312.2, subsection 15, all revenues derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to sections 423.7 and 423.7A shall be deposited and credited to the road use tax fund and shall be used exclusively for the construction, maintenance, and supervision of public highways.

Sec. 14. Section 423.24, subsection 1, unnumbered paragraph 1, Code Supplement 1997, is amended to read as follows:

Eighty-percent-of Notwithstanding any provision of this section which provides that all revenues derived from the use tax on motor vehicles, trailers, and motor vehicle accessories

and equipment as collected pursuant to section 423.7 and section 423.7A shall be deposited and credited to the road use tax fund, eighty percent of the revenues shall be deposited and credited as follows:

Sec. 15. Section 423.24, subsection 1, paragraph a, subparagraph (2), Code Supplement 1997, is amended to read as follows:

(2) ~~Beginning January 1, 1996, through December 31, 1997, two million five hundred thousand dollars per quarter shall be deposited into and credited to the Iowa comprehensive petroleum underground storage tank marketability fund created in section 455B.21. Beginning January 1, 1998, through December 31, 2002, June 30, 1999, four million two hundred fifty thousand dollars per quarter shall be deposited into and credited to the Iowa comprehensive petroleum underground storage tank marketability fund created in section 455B.21~~ department of economic development. However, not more than a total of twenty-five million dollars shall be credited to the department. The moneys so deposited credited are a continuing appropriation to be expended in accordance with section 455B.21 to carry out the provisions of section 15E.208, and the moneys shall not be used for other purposes.

Sec. 16. Section 423.24, subsection 1, paragraph c, Code Supplement 1997, is amended by striking the paragraph.

Sec. 17. Section 423.24, subsection 2, Code Supplement 1997, is amended to read as follows:

2. Twenty-percent-of Notwithstanding any other provision of this section that provides that all revenue derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7 shall be deposited and credited to the road use tax fund, twenty percent of the revenues shall be credited and deposited as follows: one-half to the road use tax fund and one-half to the primary road fund to be used for the commercial and industrial highway network, except to the extent that the department directs that moneys are deposited

in the highway safety patrol fund created in section 80.41 to fund the appropriations made from the highway safety patrol fund in accordance with the provisions of section 80.41. The department shall determine the amount of moneys to be credited under this subsection to the highway safety patrol fund and shall deposit that amount into the highway safety patrol fund.

Sec. 18. NEW SECTION. 423.24A REIMBURSEMENT FOR THE PRIMARY ROAD FUND.

From moneys deposited into the road use tax fund, the department may credit to the primary road fund any amount of revenues derived from the use tax on motor vehicles, trailers, and motor vehicles accessories and equipment as collected pursuant to sections 423.7 and 423.7A to the extent necessary to reimburse that fund for the expenditures not otherwise eligible to be made from the primary road fund, which are made for repairing, improving, and maintaining bridges over the rivers bordering the state. Expenditures for those portions of bridges within adjacent states may be included when they are made pursuant to an agreement entered into under section 313.63, 313A.34, or 314.10.

Sec. 19. 1995 Iowa Acts, chapter 215, section 29, subsection 1, is amended to read as follows:

1. Section 423.24, subsection 1, paragraph "a", subparagraph (2) is repealed on ~~January 1, 2003~~ July 1, 1999.

Sec. 20. TRANSFER AND RETROACTIVITY. Moneys deposited in the Iowa comprehensive petroleum underground storage tank marketability fund created in section 455G.21 derived from the use tax as provided in section 423.24, Code Supplement 1997, from January 1, 1998, until July 1, 1998, shall be transferred to the department of economic development for use as provided in section 15E.208, as enacted in this Act. This section shall be retroactively applicable on and after January 1, 1998.

Sec. 21. SEVERABILITY. If any provision of this Act or the application of this Act to any person or circumstance is held invalid, the invalidity shall not affect other provisions

or applications of this Act which shall be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Sec. 22. EFFECTIVE DATE. Section 20 of this Act, being deemed of immediate importance, takes effect upon enactment.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2415, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved May 20, 1998

TERRY E. BRANSTAD
Governor

SF 2415