

FEB 16 2004  
ECONOMIC GROWTH

HOUSE FILE 2263  
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Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to regional development and joint exercise of  
2 governmental powers, related county enterprise authority, and  
3 providing tax credits for economic development regions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2263

1 DIVISION I

2 Section 1. NEW SECTION. 15E.231 ECONOMIC DEVELOPMENT  
3 REGIONS.

4 1. The department shall approve an economic development  
5 region that meets the following criteria:

6 a. The region consists of not less than three contiguous  
7 counties. This criterion may be waived by the department.

8 b. The region establishes a single, focused economic  
9 development effort, approved by the department, that shall  
10 include the development of a regional development plan and  
11 regional marketing strategies. Regional marketing strategies  
12 must be focused on marketing the region collectively.

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

16 Sec. 2. NEW SECTION. 15E.232 ECONOMIC DEVELOPMENT REGION  
17 REVOLVING FUNDS -- TAX CREDITS.

18 1. An economic development region approved pursuant to  
19 section 15E.231 may create an economic development region  
20 revolving fund.

21 2. a. A nongovernmental entity making a contribution to  
22 an economic development region revolving fund at any time  
23 prior to July 1, 2009, may claim a tax credit equal to twenty  
24 percent of the amount contributed to the revolving fund. The  
25 tax credit shall be allowed against taxes imposed in chapter  
26 422, divisions II, III, and V, and in chapter 432, and against  
27 the moneys and credits tax imposed in section 533.24. An  
28 individual may claim under this subsection the tax credit of a  
29 partnership, limited liability company, S corporation, estate,  
30 or trust electing to have income taxed directly to the  
31 individual. The amount claimed by the individual shall be  
32 based upon the pro rata share of the individual's earnings  
33 from the partnership, limited liability company, S  
34 corporation, estate, or trust. Any tax credit in excess of  
35 the taxpayer's liability for the tax year may be credited to

1 the tax liability for the following seven years or until  
2 depleted, whichever occurs first. A tax credit shall not be  
3 carried back to a tax year prior to the tax year in which the  
4 taxpayer redeems the tax credit. A tax credit under this  
5 section is not transferable.

6 b. The aggregate amount of tax credits authorized pursuant  
7 to this subsection shall not total more than twenty million  
8 dollars. The total amount of tax credits authorized during a  
9 fiscal year shall not exceed four million dollars plus the  
10 amount of any unused tax credits carried over from previous  
11 years. Any tax credits which remain unused for a fiscal year  
12 may be carried forward to the succeeding fiscal year. The  
13 maximum amount of tax credits that may be authorized in a  
14 fiscal year for contributions made to a specific economic  
15 development region revolving fund shall be four million  
16 dollars plus the amount of any unused tax credits carried over  
17 from previous years divided by the number of economic  
18 development region revolving funds existing in the state.

19 c. The department of economic development shall administer  
20 the authorization of tax credits under this section and shall,  
21 in cooperation with the department of revenue, adopt rules  
22 pursuant to chapter 17A necessary for the administration of  
23 this section.

24 3. The department may establish and administer a regional  
25 economic development revenue sharing pilot project for one or  
26 more regions. Not more than three pilot projects shall be  
27 established. The department of economic development shall  
28 provide technical assistance to the regions participating in a  
29 pilot project.

30 Sec. 3. NEW SECTION. 422.11J ECONOMIC DEVELOPMENT REGION  
31 REVOLVING FUND TAX CREDIT.

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

1 Sec. 4. Section 422.33, Code Supplement 2003, is amended  
2 by adding the following new subsection:

3 NEW SUBSECTION. 16. The taxes imposed under this division  
4 shall be reduced by an economic development region revolving  
5 fund contribution tax credit authorized pursuant to section  
6 15E.232.

7 Sec. 5. Section 422.60, Code Supplement 2003, is amended  
8 by adding the following new subsection:

9 NEW SUBSECTION. 8. The taxes imposed under this division  
10 shall be reduced by an economic development region revolving  
11 fund contribution tax credit authorized pursuant to section  
12 15E.232.

13 Sec. 6. NEW SECTION. 432.12E ECONOMIC DEVELOPMENT REGION  
14 REVOLVING FUND CONTRIBUTION TAX CREDITS.

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

18 Sec. 7. Section 533.24, Code Supplement 2003, is amended  
19 by adding the following new subsection:

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

24 DIVISION II

25 Sec. 8. Section 28E.35, Code 2003, is amended to read as  
26 follows:

27 28E.35 DEFINITIONS.

28 As used in this division unless the context otherwise  
29 requires:

30 1. "Community cluster" means a cooperative community unit  
31 established pursuant to this chapter for the joint exercise of  
32 powers by two or more governmental units and for sharing one  
33 or more governmental functions between two or more  
34 governmental units participating in a community cluster.

35 2. "Governing board" means the governing board of a

1 community cluster appointed pursuant to section 28E.37.

2 ~~2-~~ 3. "Governmental unit" means a city, county, township,  
3 school district, merged area, or special taxing district.

4 4. "Shared governmental function" includes, but is not  
5 limited to, joint delivery of services, joint operation of  
6 facilities, joint development of infrastructure, or joint  
7 fostering of economic development.

8 Sec. 9. Section 28E.36, Code 2003, is amended to read as  
9 follows:

10 28E.36 ESTABLISHMENT OF COMMUNITY CLUSTER.

11 Two or more governmental units located in the state may, by  
12 resolution of each governmental unit, establish a community  
13 cluster ~~by entering into an agreement~~ for the joint exercise  
14 of powers pursuant to this chapter to make more efficient use  
15 of their resources by providing for ~~joint functions, services,~~  
16 ~~facilities, development of infrastructure and for revenue~~  
17 ~~sharing and to foster economic development~~ shared  
18 governmental functions between two or more of the governmental  
19 units participating in the community cluster.

20 A community cluster and its governing board shall have all  
21 the rights, powers, duties, privileges, and immunities of a  
22 governmental unit and governmental unit governing body to the  
23 extent that such rights, powers, duties, privileges, and  
24 immunities relate to shared governmental functions of the  
25 governmental units participating in the community cluster.

26 Sec. 10. Section 28E.37, Code 2003, is amended by striking  
27 the section and inserting in lieu thereof the following:

28 28E.37 COMMUNITY CLUSTER GOVERNING BOARD.

29 The governing body of each governmental unit participating  
30 in a community cluster shall appoint two of its members to a  
31 community cluster governing board. However, an alternative  
32 board composition may be agreed upon by the participating  
33 governmental units. A member of the governing board shall  
34 serve for two years or until the member's term on the  
35 governing body of the governmental unit expires, whichever is

1 earlier. A vacancy on the governing board shall be filled in  
2 the same manner as the original appointment. A member of the  
3 governing board shall not receive compensation for service on  
4 the governing board.

5 Sec. 11. Section 28E.38, Code 2003, is amended by striking  
6 the section and inserting in lieu thereof the following:

7 28E.38 POWERS AND DUTIES OF GOVERNING BOARD -- EXISTING  
8 BONDED INDEBTEDNESS -- TAXING AUTHORITY.

9 1. The governing board shall identify governmental  
10 functions, services, facilities, development of  
11 infrastructure, or economic development efforts that will be  
12 shared or jointly provided or operated within the community  
13 cluster.

14 2. The governing board shall establish an official name  
15 for the community cluster.

16 3. The governing board may provide for the adjustment of  
17 existing bonded indebtedness and other obligations to the  
18 extent the bonded indebtedness relates to a shared  
19 governmental function within the community cluster.

20 4. The governing board may provide for the transfer or  
21 other disposition of property and other rights, claims,  
22 assets, and franchises as they relate to a shared governmental  
23 function within the community cluster. A governmental unit  
24 participating in a community cluster may make donations of  
25 property, real or personal, including gratuitous leases, to  
26 the community cluster and the governing board as deemed proper  
27 and appropriate in aiding the community cluster and the  
28 governing board effectuate their purposes.

29 5. The governing board may provide for the transfer,  
30 reorganization, abolition, adjustment, and absorption or  
31 merger of existing boards, existing subordinate service  
32 districts, local improvement districts, and agencies of the  
33 participating governmental units to the extent they relate to  
34 a shared governmental function within the community cluster.

35 6. The governing board may determine the boundaries of the

1 service areas within the community cluster and shall provide  
2 for administration of the provision of services in each of the  
3 designated service areas.

4 7. The governing board may employ and fix the compensation  
5 of administrative, technical, professional, and clerical  
6 assistance as necessary to administer a shared governmental  
7 function.

8 8. a. The governing board may adopt budgets for shared  
9 governmental functions within the community cluster and may  
10 levy property taxes to the extent the taxing authority of a  
11 participating governmental unit is transferred to the  
12 community cluster to fund a shared governmental function. The  
13 governing board in its budget shall allocate the revenue  
14 responsibilities of each governmental unit participating in  
15 the community cluster. The governing board shall follow the  
16 same procedures for adoption of a budget as if the community  
17 cluster were a city and the governing board a city council.

18 b. The governing board shall devise formulas for the  
19 transfer of taxing authority from governmental units that are  
20 participating in the community cluster to the governing board  
21 of the community cluster to fund a shared governmental  
22 function. The maximum rates of taxes authorized to be levied  
23 by a governmental unit participating in a community cluster  
24 shall be reduced by an amount equal to that portion of the  
25 levy rates transferred to the authority of the governing  
26 board.

27 c. In lieu of transferring property taxing authority to a  
28 governing board, a governmental unit participating in a  
29 community cluster may meet its shared revenue obligations by  
30 transferring other sources of revenue authorized to be  
31 collected by the governmental unit.

32 9. The governing board may accept donations,  
33 contributions, grants, or gifts from individuals,  
34 associations, municipal and private corporations, and the  
35 United States, or any agency or instrumentality of the United

1 States, and may enter into agreements in connection therewith.

2 10. The governing board may issue bonded indebtedness to  
3 the extent authorized in section 28E.39.

4 11. By December 1 of each year, the governing board shall  
5 provide a report relating to shared governmental functions and  
6 administration of the community cluster to the governing body  
7 of each governmental unit participating in the community  
8 cluster.

9 Sec. 12. Section 28E.39, Code 2003, is amended by striking  
10 the section and inserting in lieu thereof the following:

11 28E.39 ISSUANCE OF BONDS -- APPROVAL BY ELECTORATE.

12 1. The governing board may propose the expenditure of  
13 funds, the issuance of revenue bonds, entering into a lease-  
14 purchase agreement, or the issuance of general obligation  
15 bonds for the following:

16 a. Acquisition of a construction site and construction of  
17 a building or facility for common public use by two or more  
18 governmental units participating in the community cluster.

19 b. Purchase of an existing building or facility for public  
20 use, or conversion of a building or facility previously owned  
21 and maintained by a governmental unit for public use by two or  
22 more governmental units participating in the community  
23 cluster.

24 c. Equipping or furnishing a new or existing building or  
25 facility for public use by two or more governmental units  
26 participating in the community cluster.

27 d. Operation, maintenance, or improvement of a building or  
28 facility for public use by two or more governmental units  
29 participating in the community cluster.

30 e. Any other aspect of construction, acquisition,  
31 furnishing, operation, or maintenance of a building or  
32 facility for public use by two or more governmental units  
33 participating in the community cluster, such other aspect  
34 having been proposed by the governing board and not otherwise  
35 prohibited by law.



1     2. The proposal shall be forwarded to the governing body  
2 of each governmental unit participating in the community  
3 cluster that is listed in the proposal as being allocated a  
4 portion of the cost for any of the purposes in subsection 1,  
5 paragraphs "a" through "e". The proposal shall specify the  
6 purposes for which the building or facility shall be used, the  
7 estimated cost of the building or facility, the estimated  
8 amount of the cost to be allocated to each of the  
9 participating governmental units, the proportion and method of  
10 allocating the expenses of the operation and maintenance of  
11 the building or facility or improvement, and the disposition  
12 to be made of any revenues to be derived from operation of the  
13 building or facility.

14     3. If a proposal for expenditure of funds, for issuance of  
15 revenue bonds, or for issuance of general obligation bonds  
16 described in the proposal as essential county purpose bonds or  
17 essential corporate purpose bonds is approved by the governing  
18 body of each governmental unit named in the proposal, the  
19 governing board may include such expenditures in its budget  
20 for the following fiscal year. If a proposal for issuance of  
21 general obligation bonds described in the proposal as general  
22 county purpose bonds or general corporate purpose bonds or for  
23 entering into a lease-purchase agreement is approved by the  
24 governing body of each governmental unit named in the  
25 proposal, the governing board shall direct the county  
26 commissioner of elections to submit the proposition at a  
27 special election. The special election may be held on the  
28 same day as the general election if the county commissioner  
29 determines that the elections will not conflict. Only those  
30 registered voters living within the governmental units named  
31 in the proposal may vote on the proposition. The proposition  
32 shall be adopted if the vote in favor of the proposition is  
33 equal to at least sixty percent of the vote cast for and  
34 against the proposition in each governmental unit named in the  
35 proposal.

1 4. The governing board when issuing indebtedness pursuant  
2 to this section shall follow the procedures for issuance of  
3 debt as if the governing board were a city council or a county  
4 board of supervisors and the applicable bonding provisions of  
5 chapters 74, 75, 331, and 384 shall apply.

6 5. Indebtedness issued pursuant to this section shall  
7 constitute a debt of the governmental units named in the  
8 proposal in the same proportion that the cost of the project  
9 is allocated to the governmental units and such indebtedness  
10 is subject to any statutory or constitutional limitation on  
11 issuance of debt if the debt would be subject to such  
12 limitation if it were issued by a governmental unit acting  
13 alone.

14 Sec. 13. Section 28E.40, Code 2003, is amended by striking  
15 the section and inserting in lieu thereof the following:

16 28E.40 JOINING COMMUNITY CLUSTER OR TERMINATING  
17 PARTICIPATION.

18 1. A governmental unit, by resolution, may request to join  
19 an existing community cluster. The governing body of the  
20 governmental unit shall forward the resolution to the  
21 governing bodies of each governmental unit participating in  
22 the community cluster. If each of the governing bodies  
23 approves the resolution, the governmental unit is included in  
24 the community cluster and shall appoint two of the members of  
25 its governing body to the governing board of the community  
26 cluster.

27 2. A governmental unit, by resolution, may terminate its  
28 participation in a community cluster. Immediately upon its  
29 adoption by the governing body of the governmental unit  
30 seeking termination of its participation in the community  
31 cluster, the resolution shall be forwarded to the governing  
32 board. The governing board is not empowered to deny  
33 termination but it may set a timetable, not to exceed eighteen  
34 months after adoption of the resolution, for termination to be  
35 fully effective.

1 Sec. 14. Section 331.461, subsection 2, Code 2003, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. h. Port facilities or port facilities  
4 systems, including without limitation, real and personal  
5 property, water, buildings, improvements, and equipment useful  
6 and suitable for taking care of the needs of commerce and  
7 shipping, and also including without limitation, wharves,  
8 docks, basins, piers, quay walls, warehouses, tunnels, belt  
9 railway facilities, cranes, dock apparatus, and other  
10 machinery necessary for the convenient and economical  
11 accommodation and handling of watercraft of all kinds and of  
12 freight and passengers.

13 EXPLANATION

14 This bill relates to regional development and joint  
15 exercise of governmental powers and provides tax credits for  
16 economic development regions.

17 DIVISION I. Division I of the bill provides that the  
18 department of economic development shall approve an economic  
19 development region that consists of not less than three  
20 contiguous counties and establishes a single, focused economic  
21 development effort, approved by the department, that shall  
22 include the development of a regional development plan and  
23 regional marketing strategies. The bill provides that an  
24 approved economic development region may create an economic  
25 development region revolving fund.

26 The bill provides that a nongovernmental entity making a  
27 contribution to an economic development region revolving fund  
28 at any time prior to July 1, 2009, may claim a tax credit  
29 equal to 20 percent of the amount contributed to the revolving  
30 fund. The tax credit shall be allowed against personal and  
31 corporate income tax, the franchise tax for financial  
32 institutions, the insurance premium tax, and the moneys and  
33 credits tax for credit unions. The bill provides that any tax  
34 credit in excess of the taxpayer's liability for the tax year  
35 may be credited to the tax liability for the following seven

1 years or until depleted, whichever occurs first. The bill  
2 provides that the tax credit shall not be carried back to a  
3 tax year prior to the tax year in which the taxpayer redeems  
4 the tax credit and is not transferable. The bill provides  
5 that the aggregate amount of tax credits authorized shall not  
6 total more than \$20 million. The bill provides that the total  
7 amount of tax credits authorized during a fiscal year shall  
8 not exceed \$4 million plus any unused tax credits carried over  
9 from previous years. Any tax credits which remain unused for  
10 a fiscal year may be carried forward to the succeeding fiscal  
11 year. The bill provides that the maximum amount of tax  
12 credits that may be authorized in a fiscal year for  
13 contributions made to a specific economic development region  
14 revolving fund is equal to \$4 million plus any unused tax  
15 credits carried over from previous years divided by the number  
16 of economic development region revolving funds existing in the  
17 state.

18 The bill allows the department to establish and administer  
19 a regional economic development revenue sharing pilot project  
20 for one or more regions.

21 DIVISION II. Division II of the bill expands current  
22 statutory provisions relating to establishment of community  
23 clusters. Community clusters are cooperative community units  
24 established for the joint exercise of powers by two or more  
25 governmental units.

26 Currently, a governmental unit that may participate in a  
27 community cluster is defined as a city, county, or special  
28 taxing district. The bill adds townships, school districts,  
29 and merged areas to the definition of governmental unit. The  
30 bill defines "shared governmental functions" to include joint  
31 delivery of services, joint operation of facilities, joint  
32 development of infrastructure, and joint fostering of economic  
33 development.

34 The bill provides that a community cluster and its  
35 governing board shall have all the rights, powers, duties,

1 privileges, and immunities, as they relate to shared  
2 governmental functions, as those governmental units  
3 participating in the community cluster.

4 The bill provides that the governing body of each  
5 governmental unit participating in a community cluster may  
6 appoint two of its members to a community cluster governing  
7 board unless a different board membership is agreed upon by  
8 the participating governmental units. The term of a member of  
9 the governing board is two years or until the member's term on  
10 the governing body expires, whichever is earlier.

11 The bill requires the governing board to identify shared  
12 governmental functions of the community cluster. The bill  
13 authorizes the governing board to provide for adjustment of  
14 existing bonded indebtedness; transfer or disposition of  
15 property; reorganization of existing administrative boards,  
16 agencies, and services districts; to accept donations,  
17 contributions, grants, or gifts; and to employ necessary  
18 personnel insofar as all of these things relate to  
19 administration of shared governmental functions within the  
20 community cluster. The bill also provides that the governing  
21 board has the authority to adopt budgets for shared  
22 governmental functions. The bill requires the governing board  
23 to devise formulas for the transfer of taxing authority from  
24 participating governmental units to fund shared governmental  
25 functions. Any amount of taxing authority transferred shall  
26 be subtracted from the statutory maximum, if any, for that  
27 governmental unit. A participating governmental unit may  
28 transfer other revenues, in lieu of transferring property tax  
29 authority, in order to meet its shared revenue obligations.  
30 The bill requires the governing board to report annually to  
31 the governing body of each governmental unit participating in  
32 the community cluster.

33 The bill authorizes the governing board to expend funds,  
34 enter into lease-purchase agreements, and issue revenue bonds  
35 or general obligation bonds for acquisition, construction,

1 improvement, equipping, maintenance, and operation of a  
2 building or facility for common public use by two or more  
3 governmental units participating in the community cluster.  
4 The proposal to expend funds or issue debt for a building or  
5 facility must be approved by the governing body of each  
6 governmental unit named in the proposal as being allocated a  
7 portion of the cost of the building or facility. The bill  
8 provides that the governing board is to proceed as if it were  
9 a city or a county expending the funds or issuing the  
10 indebtedness. This means, among other things, that if the  
11 proposal identifies the bonds as general county purpose or  
12 general corporate purpose bonds, issuance of such bonds must  
13 be approved at an election. Indebtedness that would be  
14 subject to any statutory or constitutional limitation if a  
15 governmental unit had issued the debt acting alone shall be  
16 considered debt of the governmental unit as part of the  
17 community cluster in the same proportion that the costs of the  
18 building or facility were allocated to the governmental unit.

19 The bill allows a governmental unit, by resolution, to  
20 request joining an existing community cluster. The resolution  
21 must be approved by the governing bodies of each governmental  
22 unit participating in the community cluster. The bill also  
23 allows a governmental unit, by resolution, to terminate  
24 participation in a community cluster. The governing board may  
25 not deny termination, but it may set a timetable, not to  
26 exceed 18 months, for termination to be fully effective.

27 The division strikes a section of the Code that required an  
28 election before a community cluster could share property tax  
29 revenues. The division also strikes a section of the Code  
30 relating to establishment of regional metropolitan service  
31 areas.

32 The division adds port facilities and port facilities  
33 systems to the definition of county enterprise. Currently,  
34 port facilities and port facilities systems are included in  
35 the definition of city enterprise.