

Withdrawn
4/24/03

HOUSE FILE 620
BY COMMITTEE ON ECONOMIC
GROWTH

MAR 18 2003
WAYS AND MEANS

(SUCCESSOR TO HSB 179)

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

A BILL FOR

1 An Act relating to new capital investment for businesses and new
2 jobs by creating a new capital investment program, creating
3 tax incentives, and amending the new jobs and income program.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 620

1 Section 1. NEW SECTION. 15.381 SHORT TITLE.

2 This part shall be known as and may be cited as the "New
3 Capital Investment Program".

4 Sec. 2. NEW SECTION. 15.382 PURPOSE.

5 It is the purpose of this part to promote new economic
6 development through new capital investments that upgrade and
7 expand the capabilities of Iowa businesses by allowing the
8 businesses to be more competitive in the world economy.

9 Sec. 3. NEW SECTION. 15.383 DEFINITIONS.

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

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

14 2. "Eligible business" means a business which has been
15 approved to receive incentives by the department pursuant to
16 section 15.384, subsection 3.

17 Sec. 4. NEW SECTION. 15.384 ELIGIBLE BUSINESS.

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

20 a. The business has not closed or reduced its operation in
21 one area of the state and relocated substantially the same
22 operation in the community.

23 b. The business is not a retail business or a business
24 where entrance is limited by a cover charge or membership
25 requirement.

26 c. The business makes a capital investment of at least
27 five hundred thousand dollars.

28 d. The business creates high-quality jobs due to the
29 capital investment. In determining whether high-quality jobs
30 are created, the department shall place greater emphasis on
31 jobs that have all the following characteristics:

32 (1) Have a wage equal to at least the average county wage.

33 (2) Are full-time or career-type positions.

34 (3) Provide comprehensive health benefits.

35 (4) Have other related characteristics which could be

1 considered to be higher in quality than do other jobs.

2 e. The start-up, location, or expansion of the business
3 occurs within a specified period which will be negotiated with
4 the department and the community, but which shall be at least
5 a period of three years.

6 f. The business provides the community and the department
7 with an affidavit stating that the business has not, within
8 the five years prior to the application date, violated state
9 or federal environmental or worker safety statutes, rules, or
10 regulations or, if such violation has occurred, that there
11 were mitigating circumstances or such violations did not
12 seriously affect public health or safety or the environment.

13 2. The community and the department may also consider a
14 variety of factors, including the following, in determining
15 the eligibility of a business to participate in the program:

16 a. The impact of the proposed project on the community and
17 the state.

18 b. The impact the business will have on other businesses
19 in competition with it.

20 c. The potential for future growth in the industry
21 represented by the business.

22 d. The impact the proposed new capital investment will
23 have on the ability of the business to expand, upgrade, or
24 modernize its capabilities, and the extent to which the new
25 capital investment will result in a more productive and
26 competitive business enterprise and workforce.

27 e. The proportion of the local funding match to be
28 provided.

29 3. If the community determines that a business is
30 eligible, the community shall approve by resolution the
31 application for incentives. Once a business is found to be
32 eligible, the community shall submit the application to the
33 department. The department may approve, defer, or deny the
34 application.

35 Sec. 5. NEW SECTION. 15.385 INCENTIVES.

1 For tax years beginning on or after January 1, 2003, an
2 eligible business shall be entitled to receive all of the
3 following incentives:

4 1. Sales, services, and use tax refund, as provided in
5 section 15.331A.

6 2. Research activities credit, as provided in section
7 15.335.

8 3. a. An eligible business may claim a tax credit equal
9 to a percentage of the new investment directly related to new
10 jobs created by the location or expansion of an eligible
11 business under the program. The tax credit shall be allowed
12 against taxes imposed under chapter 422, division II, III, or
13 V. If the business is a partnership, S corporation, limited
14 liability company, cooperative organized under chapter 501 and
15 filing as a partnership for federal tax purposes, or estate or
16 trust electing to have the income taxed directly to the
17 individual, an individual may claim the tax credit allowed.
18 The amount claimed by the individual shall be based upon the
19 pro rata share of the individual's earnings of the
20 partnership, S corporation, limited liability company,
21 cooperative organized under chapter 501 and filing as a
22 partnership for federal tax purposes, or estate or trust. The
23 percentage shall be equal to the amount provided in paragraph
24 "d". Any tax credit in excess of the tax liability for the
25 tax year may be credited to the tax liability for the
26 following seven years or until depleted, whichever occurs
27 first.

28 Subject to prior approval by the department of economic
29 development, in consultation with the department of revenue
30 and finance, an eligible business whose project primarily
31 involves the production of value-added agricultural products
32 or uses biotechnology-related processes may elect to receive a
33 refund of all or a portion of an unused tax credit. For
34 purposes of this subsection, such an eligible business
35 includes a cooperative described in section 521 of the

1 Internal Revenue Code which is not required to file an Iowa
2 corporate income tax return, and whose project primarily
3 involves the production of ethanol. The refund may be applied
4 against a tax liability imposed under chapter 422, division
5 II, III, or V. If the business is a partnership, subchapter S
6 corporation, limited liability company, cooperative organized
7 under chapter 501 and filing as a partnership for federal tax
8 purposes, or estate or trust electing to have the income taxed
9 directly to the individual, an individual may claim the tax
10 credit allowed. The amount claimed by the individual shall be
11 based upon the pro rata share of the individual's earnings of
12 the partnership, subchapter S corporation, limited liability
13 company, cooperative organized under chapter 501 and filing as
14 a partnership for federal tax purposes, or estate or trust.

15 b. For purposes of this subsection, "new investment
16 directly related to new jobs created by the location or
17 expansion of an eligible business under the program" means the
18 cost of machinery and equipment, as defined in section 427A.1,
19 subsection 1, paragraphs "e" and "j", purchased for use in the
20 operation of the eligible business, the purchase price of
21 which has been depreciated in accordance with generally
22 accepted accounting principles, the purchase price of real
23 property and any buildings and structures located on the real
24 property, and the cost of improvements made to real property
25 which is used in the operation of the eligible business. If,
26 however, within five years of purchase, the eligible business
27 sells, disposes of, razes, or otherwise renders unusable all
28 or a part of the land, buildings, or other existing structures
29 for which tax credit was claimed under this section, the
30 income tax liability of the eligible business for the year in
31 which all or part of the property is sold, disposed of, razed,
32 or otherwise rendered unusable shall be increased by one of
33 the following amounts:

34 (1) One hundred percent of the tax credit claimed under
35 this subsection if the property ceases to be eligible for the

1 tax credit within one full year after being placed in service.

2 (2) Eighty percent of the tax credit claimed under this
3 subsection if the property ceases to be eligible for the tax
4 credit within two full years after being placed in service.

5 (3) Sixty percent of the tax credit claimed under this
6 subsection if the property ceases to be eligible for the tax
7 credit within three full years after being placed in service.

8 (4) Forty percent of the tax credit claimed under this
9 subsection if the property ceases to be eligible for the tax
10 credit within four full years after being placed in service.

11 (5) Twenty percent of the tax credit claimed under this
12 subsection if the property ceases to be eligible for the tax
13 credit within five full years after being placed in service.

14 c. (1) An eligible business whose project primarily
15 involves the production of value-added agricultural products
16 or uses biotechnology-related processes, which elects to
17 receive a refund of all or a portion of an unused tax credit,
18 shall apply to the department of economic development for tax
19 credit certificates. Such an eligible business shall not
20 claim a tax credit refund under this subsection unless a tax
21 credit certificate issued by the department of economic
22 development is attached to the taxpayer's tax return for the
23 tax year for which the tax credit refund is claimed. For
24 purposes of this subsection, an eligible business includes a
25 cooperative described in section 521 of the Internal Revenue
26 Code which is not required to file an Iowa corporate income
27 tax return, and whose project primarily involves the
28 production of ethanol. For purposes of this subsection, an
29 eligible business also includes a cooperative described in
30 section 521 of the Internal Revenue Code which is required to
31 file an Iowa corporate income tax return and whose project
32 primarily involves the production of ethanol. Such
33 cooperative may elect to transfer all or a portion of its tax
34 credit to its members. The amount of tax credit transferred
35 and claimed by a member shall be based upon the pro rata share

1 of the member's earnings of the cooperative.

2 (2) A tax credit certificate shall not be valid until the
3 tax year following the date of the capital investment project
4 completion. A tax credit certificate shall contain the
5 taxpayer's name, address, tax identification number, the date
6 of project completion, the amount of the tax credit, and other
7 information required by the department of revenue and finance.
8 The department of economic development shall not issue tax
9 credit certificates under this subsection and section 15.333,
10 subsection 2, which total more than four million dollars
11 during a fiscal year. If the department receives applications
12 for tax credit certificates under this subsection and section
13 15.333, subsection 2, in excess of four million dollars, the
14 applicants shall receive certificates for a prorated amount.
15 The tax credit certificates shall not be transferred except as
16 provided in this subsection for a cooperative described in
17 section 521 of the Internal Revenue Code which is required to
18 file an Iowa corporate income tax return and whose project
19 primarily involves the production of ethanol. For a
20 cooperative described in section 521 of the Internal Revenue
21 Code, the department of economic development shall require
22 that the cooperative submit a list of its members and the
23 share of each member's interest in the cooperative. The
24 department shall issue a tax credit certificate to each member
25 contained on the submitted list.

26 d. The amount of a tax credit claimed under this
27 subsection shall be determined as follows:

28 (1) If the department determines, based on the application
29 of the eligible business, that high-quality jobs are not
30 created but economic activity within the state is advanced,
31 the eligible business may claim a corporate tax credit of up
32 to one percent of the new investment.

33 (2) If the department determines, based on the application
34 of the eligible business, that one to five high-quality jobs
35 are created, the eligible business may claim a corporate tax

1 credit of up to two percent of the new investment.

2 (3) If the department determines, based on the application
3 of the eligible business, that six to ten high-quality jobs
4 are created, the eligible business may claim a corporate tax
5 credit of up to three percent of the new investment.

6 (4) If the department determines, based on the application
7 of the eligible business, that eleven to fifteen high-quality
8 jobs are created, the eligible business may claim a corporate
9 tax credit of up to four percent of the new investment.

10 (5) If the department determines, based on the application
11 of the eligible business, that more than fifteen high-quality
12 jobs are created, the eligible business may claim a corporate
13 tax credit of up to five percent of the new investment.

14 4. a. An eligible business may claim an insurance premium
15 tax credit equal to a percentage of the new investment
16 directly related to new jobs created by the location or
17 expansion of an eligible business under the program. The tax
18 credit shall be allowed against taxes imposed in chapter 432.
19 A tax credit in excess of the tax liability for the tax year
20 may be credited to the tax liability for the following seven
21 years or until depleted, whichever occurs first. The
22 percentage shall be equal to the amount provided in paragraph
23 "c".

24 b. For purposes of this subsection, "new investment
25 directly related to new jobs created by the location or
26 expansion of an eligible business under the program" means the
27 cost of machinery and equipment, as defined in section 427A.1,
28 subsection 1, paragraphs "e" and "j", purchased for use in the
29 operation of the eligible business, the purchase price of
30 which has been depreciated in accordance with generally
31 accepted accounting principles, the purchase price of real
32 property and any buildings and structures located on the real
33 property, and the cost of improvements made to real property
34 which is used in the operation of the eligible business. If,
35 however, within five years of purchase, the eligible business

1 sells, disposes of, razes, or otherwise renders unusable all
2 or a part of the land, buildings, or other existing structures
3 for which tax credit was claimed under this section, the
4 income tax liability of the eligible business for the year in
5 which all or part of the property is sold, disposed of, razed,
6 or otherwise rendered unusable shall be increased by one of
7 the following amounts:

8 (1) One hundred percent of the tax credit claimed under
9 this subsection if the property ceases to be eligible for the
10 tax credit within one full year after being placed in service.

11 (2) Eighty percent of the tax credit claimed under this
12 subsection if the property ceases to be eligible for the tax
13 credit within two full years after being placed in service.

14 (3) Sixty percent of the tax credit claimed under this
15 subsection if the property ceases to be eligible for the tax
16 credit within three full years after being placed in service.

17 (4) Forty percent of the tax credit claimed under this
18 subsection if the property ceases to be eligible for the tax
19 credit within four full years after being placed in service.

20 (5) Twenty percent of the tax credit claimed under this
21 subsection if the property ceases to be eligible for the tax
22 credit within five full years after being placed in service.

23 c. The amount of the tax credit claimed under this
24 subsection shall be determined as follows:

25 (1) If the department determines, based on the application
26 of the eligible business, that high-quality jobs are not
27 created but economic activity within the state is advanced,
28 the eligible business may claim an insurance premium tax
29 credit of up to one percent of the new investment.

30 (2) If the department determines, based on the application
31 of the eligible business, that one to five high-quality jobs
32 are created, the eligible business may claim an insurance
33 premium tax credit of up to two percent of the new investment.

34 (3) If the department determines, based on the application
35 of the eligible business, that six to ten high-quality jobs

1 are created, the eligible business may claim an insurance
2 premium tax credit of up to three percent of the new
3 investment.

4 (4) If the department determines, based on the application
5 of the eligible business, that eleven to fifteen high-quality
6 jobs are created, the eligible business may claim an insurance
7 premium tax credit of up to four percent of the new
8 investment.

9 (5) If the department determines, based on the application
10 of the eligible business, that more than fifteen high-quality
11 jobs are created, the eligible business may claim an insurance
12 premium tax credit of up to five percent of the new
13 investment.

14 Sec. 6. NEW SECTION. 15.386 AGREEMENT.

15 A business shall enter into an agreement with the
16 department specifying the requirements that must be met to
17 confirm eligibility pursuant to section 15.384. The
18 department shall consult with the community during
19 negotiations relating to the agreement. The agreement shall
20 contain, at a minimum, the following provisions:

21 1. A business that is approved to receive incentives
22 shall, for the length of the agreement, certify annually to
23 the community and the department the compliance of the
24 business with the requirements of the agreement.

25 2. The repayment of incentives by the business if the
26 business or group of businesses has not met any of the
27 requirements of this part or the resulting agreement.

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

1 incentives that it has received.

2 Sec. 7. NEW SECTION. 15.387 OTHER INCENTIVES.

3 An eligible business may receive other applicable federal,
4 state, and local incentives and tax credits in addition to
5 those provided in this part. However, a business which
6 participates in the program under this part shall not receive
7 any funds, tax credits, or incentives under chapter 15,
8 subchapter II, part 13, or chapter 15E, division XVIII.

9 Sec. 8. Section 15.333, subsection 2, unnumbered paragraph
10 2, Code 2003, is amended to read as follows:

11 A tax credit certificate shall not be valid until the tax
12 year following the date of the project completion. A tax
13 credit certificate shall contain the taxpayer's name, address,
14 tax identification number, the date of project completion, the
15 amount of the tax credit, and other information required by
16 the department of revenue and finance. The department of
17 economic development shall not issue tax credit certificates
18 under this subsection and section 15.385, subsection 3,
19 paragraph "c", which total more than four million dollars
20 during a fiscal year. If the department receives applications
21 for tax credit certificates under this subsection and section
22 15.385, subsection 3, paragraph "c", in excess of four million
23 dollars, the applicants shall receive certificates for a
24 prorated amount. The tax credit certificates shall not be
25 transferred except as provided in this subsection for a
26 cooperative described in section 521 of the Internal Revenue
27 Code which is required to file an Iowa corporate income tax
28 return and whose project primarily involves the production of
29 ethanol. For a cooperative described in section 521 of the
30 Internal Revenue Code, the department of economic development
31 shall require that the cooperative submit a list of its
32 members and the share of each member's interest in the
33 cooperative. The department shall issue a tax credit
34 certificate to each member contained on the submitted list.

35 Sec. 9. Section 15.337, Code 2003, is amended to read as

1 follows:

2 15.337 WAIVER OF PROGRAM QUALIFICATION REQUIREMENTS.

3 A community may request the waiver of ~~the-capital~~
4 ~~investment-requirement-or~~ the requirement for number of
5 positions created under section 15.329. However, in no event
6 shall the minimum number of jobs created be less than fifteen
7 ~~or-the-minimum-capital-investment-be-less-than-three-million~~
8 ~~dollars~~ per application under the program. ~~The-department~~
9 ~~shall-develop-an-appropriate-formula-of-minimum-jobs-created~~
10 ~~and-capital-investment-required-per-program-application-which~~
11 ~~can-be-authorized-under-the-waiver.~~ The department may grant
12 a waiver for good cause shown and approve the program
13 application.

14 As used in this section, "good cause shown" includes ~~but-is~~
15 ~~not-limited-to-a-demonstrated-lack-of-growth-in-the-community,~~
16 ~~a-significant-percentage-of-persons-in-the-community-who-have~~
17 ~~incomes-at-or-below-the-poverty-level,~~ community a county
18 family poverty rate higher than the state average, a county
19 unemployment rate higher than the state average, a unique
20 opportunity to use existing unutilized or-underutilized
21 facilities in the community, a significant downsizing or
22 closure by one of the community's major employers, or an
23 immediate threat posed to the community's workforce due to
24 business downsizing or closure. "Good cause shown" may also
25 include a proposed project by a business in one of the state's
26 targeted industry clusters which will make a higher than
27 average capital investment and which will pay an average
28 starting wage for all the new jobs created as the result of
29 the project that is significantly higher than the wage
30 requirement in section 15.329. For purposes of this section,
31 "targeted industry clusters" includes the industry clusters of
32 life sciences, information solutions, and advanced
33 manufacturing.

34 EXPLANATION

35 This bill creates a new capital investment program and

1 amends the new jobs and income program.

2 The bill provides that to be eligible to receive incentives
3 under the new capital investment program, a business is
4 required to meet all of the following requirements:

5 1. The business has not closed or reduced its operation in
6 one area of the state and relocated substantially the same
7 operation in the community.

8 2. The business is not a retail business where entrance is
9 limited by a cover charge or membership requirement.

10 3. The business makes a capital investment of at least
11 \$500,000.

12 4. The business creates high-quality jobs due to the
13 capital investment.

14 5. The start-up, location, or expansion of the business
15 occurs within at least a period of three years.

16 6. The business provides the community and the department
17 with an affidavit stating that the business has not, within
18 the five years prior to the application date, violated state
19 or federal environmental or worker safety statutes, rules, or
20 regulations or, if such violation has occurred, that there
21 were mitigating circumstances or such violations did not
22 seriously affect public health or safety or the environment.

23 The bill also allows a community and the department to
24 consider a variety of factors in determining the eligibility
25 of a business to participate in the program. The factors
26 include the impact of the proposed project on the community
27 and the state; the impact the business will have on other
28 businesses in competition with it; the potential for future
29 growth in the industry represented by the business; the impact
30 the proposed new capital investment will have on the ability
31 of the business to expand, upgrade, or modernize its
32 capabilities, and the extent to which the new capital
33 investment will result in a more productive and competitive
34 business enterprise and workforce; and the proportion of the
35 local funding match to be provided.

1 The bill provides that if the community determines that a
2 business is eligible, the community shall approve by
3 resolution the application for incentives. The bill provides
4 that, once a business is found to be eligible, the community
5 shall submit the application to the department and the
6 department may approve, defer, or deny the application.

7 The bill requires a business to enter into an agreement
8 with the department specifying the requirements which must be
9 met to confirm eligibility under the program. The bill
10 requires the agreement to contain, at a minimum, provisions
11 relating to continued compliance, repayment of incentives due
12 to a failure to comply, and the reduction, elimination, or
13 repayment of incentives for reasons related to layoffs or the
14 closure of facilities.

15 The bill provides that, for tax years beginning on or after
16 January 1, 2003, an eligible business shall receive a number
17 of incentives: the sales, services, and use tax refund
18 available under the new jobs and income program and the
19 research activities credit available under the new jobs and
20 income program. The bill also allows an eligible business to
21 claim a tax credit equal to a percentage of the new investment
22 which is directly related to new jobs created by the location
23 or expansion of an eligible business under the program. The
24 percentage ranges from 1 percent to 5 percent based on the
25 number of high-quality jobs that are created, as determined by
26 the department. The tax credit is allowed against personal
27 and corporate income tax and against the franchise tax for
28 financial institutions. The tax credits may be carried
29 forward for a period of seven years or until depleted,
30 whichever occurs first. The bill provides that, subject to
31 prior approval by the department of economic development, in
32 consultation with the department of revenue and finance, an
33 eligible business whose project primarily involves the
34 production of value-added agricultural products or uses
35 biotechnology-related processes may elect to receive a refund

1 of all or a portion of an unused tax credit. The bill
2 provides a certification method for claiming tax credit
3 refunds. The bill provides that the tax credit refund
4 certificates are not valid until the tax year following the
5 date of the capital investment completion. The bill limits
6 the department of economic development to issuing certificates
7 under this program and the new jobs and income program which
8 total more than \$4 million during a fiscal year.

9 The bill allows an eligible business to claim an insurance
10 premium tax credit equal to a percentage of the new investment
11 directly related to new jobs created by the location or
12 expansion of an eligible business under the program. The
13 percentage ranges from 1 percent to 5 percent based on the
14 number of high-quality jobs that are created, as determined by
15 the department. The tax credits may be carried forward for a
16 period of seven years or until depleted, whichever occurs
17 first.

18 The bill provides that an eligible business may receive
19 other applicable federal, state, and local incentives and tax
20 credits in addition to those provided under the new capital
21 investment program; however, an eligible business shall not
22 receive funds, tax credits, or incentives under the community
23 economic betterment program or the enterprise zone program.

24 Currently under the new jobs and income program, a
25 community may receive a waiver of the capital investment
26 requirement or the number of jobs created requirement if good
27 cause is shown. The bill eliminates the capital investment
28 requirement waiver and provides examples of demonstrations of
29 good cause.

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HSB179
ECONOMIC GROWTH

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
ECONOMIC GROWTH BILL
BY CHAIRPERSON HOFFMAN)

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

A BILL FOR

1 An Act relating to new capital investment for businesses and new
2 jobs by creating a new capital investment program and amending
3 the new jobs and income program.

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

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1 Section 1. NEW SECTION. 15.381 SHORT TITLE.

2 This part shall be known as and may be cited as the "New
3 Capital Investment Program".

4 Sec. 2. NEW SECTION. 15.382 PURPOSE.

5 It is the purpose of this part to promote new economic
6 development through new capital investments that upgrade and
7 expand the capabilities of Iowa businesses by allowing the
8 businesses to be more competitive in the world economy.

9 Sec. 3. NEW SECTION. 15.383 DEFINITIONS.

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

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

14 2. "Eligible business" means a business which has been
15 approved to receive incentives by the department pursuant to
16 section 15.384, subsection 3.

17 Sec. 4. NEW SECTION. 15.384 ELIGIBLE BUSINESS.

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

21 a. The business has not closed or reduced its operation in
22 one area of the state and relocated substantially the same
23 operation in the community.

24 b. The business is not a retail business where entrance is
25 limited by a cover charge or membership requirement.

26 c. The business makes a capital investment of at least one
27 million dollars.

28 d. The business creates high-quality jobs due to the
29 capital investment. In determining whether high-quality jobs
30 are created, the department shall place greater emphasis on
31 jobs that have any of the following characteristics:

32 (1) Have a high wage.

33 (2) Have a low turnover rate.

34 (3) Are full-time or career-type positions.

35 (4) Provide comprehensive health benefits.

1 (5) Have other related characteristics which could be
2 considered to be higher in quality than do other jobs.

3 e. The start-up, location, or expansion of the business
4 occurs within a specified period which will be negotiated with
5 the department and the community, but which shall be at least
6 a period of three years.

7 f. The business provides the community and the department
8 with an affidavit stating that the business has not, within
9 the five years prior to the application date, violated state
10 or federal environmental or worker safety statutes, rules, or
11 regulations or, if such violation has occurred, that there
12 were mitigating circumstances or such violations did not
13 seriously affect public health or safety or the environment.

14 2. ELIGIBILITY FACTORS. The community and the department
15 may also consider a variety of factors, including the
16 following, in determining the eligibility of a business to
17 participate in the program:

18 a. The impact of the proposed project on the community and
19 the state.

20 b. The impact the business will have on other businesses
21 in competition with it.

22 c. The potential for future growth in the industry
23 represented by the business.

24 d. The impact the proposed new capital investment will
25 have on the ability of the business to expand, upgrade, or
26 modernize its capabilities, and the extent to which the new
27 capital investment will result in a more productive and
28 competitive business enterprise and workforce.

29 e. The proportion of the local funding match to be
30 provided.

31 3. APPROVAL. If the community determines that a business
32 is eligible, the community shall approve by resolution the
33 application for incentives. Once a business is found to be
34 eligible, the community shall submit the application to the
35 department. The department may approve, defer, or deny the

1 application.

2 Sec. 5. NEW SECTION. 15.385 INCENTIVES.

3 An eligible business shall be entitled to receive all of
4 the following incentives:

5 1. Sales, services, and use tax refund, as provided in
6 section 15.331A.

7 2. Research activities credit, as provided in section
8 15.335.

9 3. Corporate tax credit.

10 a. An eligible business may claim a corporate tax credit
11 equal to a percentage of the new investment directly related
12 to new jobs created by the location or expansion of an
13 eligible business under the program. For purposes of this
14 subsection, "new investment directly related to new jobs
15 created by the location or expansion of an eligible business
16 under the program" means the cost of machinery and equipment,
17 as defined in section 427A.1, subsection 1, paragraphs "e" and
18 "j", purchased for use in the operation of the eligible
19 business, the purchase price of which has been depreciated in
20 accordance with generally accepted accounting principles, the
21 purchase price of real property and any buildings and
22 structures located on the real property, and the cost of
23 improvements made to real property which is used in the
24 operation of the eligible business. The percentage shall be
25 equal to the amount provided in paragraph "c". Any tax credit
26 in excess of the tax liability for the tax year may be
27 credited to the tax liability for the following seven years or
28 until depleted, whichever occurs first.

29 Subject to prior approval by the department of economic
30 development, in consultation with the department of revenue
31 and finance, an eligible business whose project primarily
32 involves the production of value-added agricultural products
33 or uses biotechnology-related processes may elect to receive a
34 refund of all or a portion of an unused tax credit. For
35 purposes of this subsection, such an eligible business

1 includes a cooperative described in section 521 of the
2 Internal Revenue Code which is not required to file an Iowa
3 corporate income tax return, and whose project primarily
4 involves the production of ethanol. The refund may be applied
5 against a tax liability imposed under chapter 422, division
6 II, III, or V. If the business is a partnership, subchapter S
7 corporation, limited liability company, cooperative organized
8 under chapter 501 and filing as a partnership for federal tax
9 purposes, or estate or trust electing to have the income taxed
10 directly to the individual, an individual may claim the tax
11 credit allowed. The amount claimed by the individual shall be
12 based upon the pro rata share of the individual's earnings of
13 the partnership, subchapter S corporation, limited liability
14 company, cooperative organized under chapter 501 and filing as
15 a partnership for federal tax purposes, or estate or trust.

16 b. (1) An eligible business whose project primarily
17 involves the production of value-added agricultural products
18 or uses biotechnology-related processes, which elects to
19 receive a refund of all or a portion of an unused tax credit,
20 shall apply to the department of economic development for tax
21 credit certificates. Such an eligible business shall not
22 claim a tax credit refund under this subsection unless a tax
23 credit certificate issued by the department of economic
24 development is attached to the taxpayer's tax return for the
25 tax year for which the tax credit refund is claimed. For
26 purposes of this subsection, an eligible business includes a
27 cooperative described in section 521 of the Internal Revenue
28 Code which is not required to file an Iowa corporate income
29 tax return, and whose project primarily involves the
30 production of ethanol. For purposes of this subsection, an
31 eligible business also includes a cooperative described in
32 section 521 of the Internal Revenue Code which is required to
33 file an Iowa corporate income tax return and whose project
34 primarily involves the production of ethanol. Such
35 cooperative may elect to transfer all or a portion of its tax

1 credit to its members. The amount of tax credit transferred
2 and claimed by a member shall be based upon the pro rata share
3 of the member's earnings of the cooperative.

4 (2) A tax credit certificate shall not be valid until the
5 tax year following the date of the capital investment project
6 completion. A tax credit certificate shall contain the
7 taxpayer's name, address, tax identification number, the date
8 of project completion, the amount of the tax credit, and other
9 information required by the department of revenue and finance.
10 The department of economic development shall not issue tax
11 credit certificates which total more than four million dollars
12 during a fiscal year. If the department receives applications
13 for tax credit certificates in excess of four million dollars,
14 the applicants shall receive certificates for a prorated
15 amount. The tax credit certificates shall not be transferred
16 except as provided in this subsection for a cooperative
17 described in section 521 of the Internal Revenue Code which is
18 required to file an Iowa corporate income tax return and whose
19 project primarily involves the production of ethanol. For a
20 cooperative described in section 521 of the Internal Revenue
21 Code, the department of economic development shall require
22 that the cooperative submit a list of its members and the
23 share of each member's interest in the cooperative. The
24 department shall issue a tax credit certificate to each member
25 contained on the submitted list.

26 c. The amount of a tax credit claimed under this
27 subsection shall be determined as follows:

28 (1) If the department determines, based on the application
29 of the eligible business, that no high-quality jobs are
30 created, the eligible business may claim a corporate tax
31 credit equal to one percent of the new investment.

32 (2) If the department determines, based on the application
33 of the eligible business, that one to five high-quality jobs
34 are created, the eligible business may claim a corporate tax
35 credit equal to two percent of the new investment.

1 (3) If the department determines, based on the application
2 of the eligible business, that six to ten high-quality jobs
3 are created, the eligible business may claim a corporate tax
4 credit equal to three percent of the new investment.

5 (4) If the department determines, based on the application
6 of the eligible business, that eleven to fifteen high-quality
7 jobs are created, the eligible business may claim a corporate
8 tax credit equal to four percent of the new investment.

9 (5) If the department determines, based on the application
10 of the eligible business, that more than fifteen high-quality
11 jobs are created, the eligible business may claim a corporate
12 tax credit equal to five percent of the new investment.

13 4. Insurance premium tax credit.

14 a. An eligible business may claim an insurance premium tax
15 credit equal to a percentage of the new investment directly
16 related to new jobs created by the location or expansion of an
17 eligible business under the program. The tax credit shall be
18 allowed against taxes imposed in chapter 432. For purposes of
19 this subsection, "new investment directly related to new jobs
20 created by the location or expansion of an eligible business
21 under the program" means the cost of machinery and equipment,
22 as defined in section 427A.1, subsection 1, paragraphs "e" and
23 "j", purchased for use in the operation of the eligible
24 business, the purchase price of which has been depreciated in
25 accordance with generally accepted accounting principles, the
26 purchase price of real property and any buildings and
27 structures located on the real property, and the cost of
28 improvements made to real property which is used in the
29 operation of the eligible business. The percentage shall be
30 equal to the amount provided in paragraph "b". Any tax credit
31 in excess of the tax liability for the tax year may be
32 credited to the tax liability for the following seven years or
33 until depleted, whichever occurs first.

34 b. The amount of the tax credit claimed under this
35 subsection shall be determined as follows:

1 (1) If the department determines, based on the application
2 of the eligible business, that no high-quality jobs are
3 created, the eligible business may claim an insurance premium
4 tax credit of up to one percent of the new investment.

5 (2) If the department determines, based on the application
6 of the eligible business, that one to five high-quality jobs
7 are created, the eligible business may claim an insurance
8 premium tax credit of up to two percent of the new investment.

9 (3) If the department determines, based on the application
10 of the eligible business, that six to ten high-quality jobs
11 are created, the eligible business may claim an insurance
12 premium tax credit of up to three percent of the new
13 investment.

14 (4) If the department determines, based on the application
15 of the eligible business, that eleven to fifteen high-quality
16 jobs are created, the eligible business may claim an insurance
17 premium tax credit of up to four percent of the new
18 investment.

19 (5) If the department determines, based on the application
20 of the eligible business, that more than fifteen high-quality
21 jobs are created, the eligible business may claim an insurance
22 premium tax credit of up to five percent of the new
23 investment.

24 Sec. 6. NEW SECTION. 15.386 AGREEMENT.

25 A business shall enter into an agreement with the
26 department specifying the requirements that must be met to
27 confirm eligibility pursuant to section 15.384. The
28 department shall consult with the community during
29 negotiations relating to the agreement. The agreement shall
30 contain, at a minimum, the following provisions:

31 1. A business that is approved to receive incentives
32 shall, for the length of the agreement, certify annually to
33 the community and the department the compliance of the
34 business with the requirements of the agreement.

35 2. The repayment of incentives by the business if the

1 business or group of businesses has not met any of the
2 requirements of this part or the resulting agreement.

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

12 Sec. 7. Section 15.337, Code 2003, is repealed.

13 EXPLANATION

14 This bill creates a new capital investment program and
15 amends the new jobs and income program.

16 The bill provides that to be eligible to receive incentives
17 under the new capital investment program, a business is
18 required to meet all of the following requirements:

19 1. The business has not closed or reduced its operation in
20 one area of the state and relocated substantially the same
21 operation in the community.

22 2. The business is not a retail business where entrance is
23 limited by a cover charge or membership requirement.

24 3. The business makes a capital investment of at least \$1
25 million.

26 4. The business creates high-quality jobs due to the
27 capital investment.

28 5. The start-up, location, or expansion of the business
29 occurs within at least a period of three years.

30 6. The business provides the community and the department
31 with an affidavit stating that the business has not, within
32 the five years prior to the application date, violated state
33 or federal environmental or worker safety statutes, rules, or
34 regulations or, if such violation has occurred, that there
35 were mitigating circumstances or such violations did not

1 seriously affect public health or safety or the environment.

2 The bill also allows a community and the department to
3 consider a variety of factors in determining the eligibility
4 of a business to participate in the program. The factors
5 include the impact of the proposed project on the community
6 and the state; the impact the business will have on other
7 businesses in competition with it; the potential for future
8 growth in the industry represented by the business; the impact
9 the proposed new capital investment will have on the ability
10 of the business to expand, upgrade, or modernize its
11 capabilities, and the extent to which the new capital
12 investment will result in a more productive and competitive
13 business enterprise and workforce; and the proportion of the
14 local funding match to be provided.

15 The bill provides that if the community determines that a
16 business is eligible, the community shall approve by
17 resolution the application for incentives. The bill provides
18 that, once a business is found to be eligible, the community
19 shall submit the application to the department and the
20 department may approve, defer, or deny the application.

21 The bill requires a business to enter into an agreement
22 with the department specifying the requirements which must be
23 met to confirm eligibility under the program. The bill
24 requires the agreement to contain, at a minimum, provisions
25 relating to continued compliance, repayment of incentives due
26 to a failure to comply, and the reduction, elimination, or
27 repayment of incentives for reasons related to layoffs or the
28 closure of facilities.

29 The bill provides that an eligible business shall receive a
30 number of incentives: the sales, services, and use tax refund
31 available under the new jobs and income program and the
32 research activities credit available under the new jobs and
33 income program. The bill also allows an eligible business to
34 claim a corporate tax credit equal to a percentage of the new
35 investment which is directly related to new jobs created by

1 the location or expansion of an eligible business under the
2 program. The percentage ranges from 1 percent to 5 percent
3 based on the number of high-quality jobs that are created, as
4 determined by the department. The tax credits may be carried
5 forward for a period of seven years or until depleted,
6 whichever occurs first. The bill provides that, subject to
7 prior approval by the department of economic development, in
8 consultation with the department of revenue and finance, an
9 eligible business whose project primarily involves the
10 production of value-added agricultural products or uses
11 biotechnology-related processes may elect to receive a refund
12 of all or a portion of an unused tax credit. The bill
13 provides a certification method for claiming tax credit
14 refunds. The bill provides that the tax credit refund
15 certificates are not valid until the tax year following the
16 date of the capital investment completion. The bill limits
17 the department of economic development to issuing certificates
18 which total more than \$4 million during a fiscal year.

19 The bill allows an eligible business to claim an insurance
20 premium tax credit equal to a percentage of the new investment
21 directly related to new jobs created by the location or
22 expansion of an eligible business under the program. The
23 percentage ranges from 1 percent to 5 percent based on the
24 number of high-quality jobs that are created, as determined by
25 the department. The tax credits may be carried forward for a
26 period of seven years or until depleted, whichever occurs
27 first.

28 The bill repeals a waiver of qualification requirement
29 provisions of the new jobs and income program.

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