

SENATE FILE 225  
BY ANGELO

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

**A BILL FOR**

1 An Act relating to charitable contributions by establishing a  
2 community development program to provide tax credits for  
3 income tax, franchise tax, premiums tax, and moneys and  
4 credits tax for businesses contributing to community  
5 development projects to aid certain neighborhoods and  
6 communities, and by establishing an individual income tax  
7 credit for contributions to certain qualified endowments, and  
8 including effective and applicability date provisions.

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

- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

SF 225  
ECONOMIC GROWTH

1 Section 1. NEW SECTION. 15.380 SHORT TITLE.

2 This part shall be known as and may be cited as the  
3 "Community Development Program Act".

4 Sec. 2. NEW SECTION. 15.381 DEFINITIONS.

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

7 1. "Business" means all businesses operating within the  
8 state and includes individuals operating a sole proprietorship  
9 or having rental, royalty, or farm income in this state and  
10 includes a consortium of businesses.

11 2. "Community services" means, but is not limited to,  
12 individual, group, and family counseling; parent and early  
13 childhood education; mental health services; primary care and  
14 community medical health centers; child and adult care  
15 services; senior citizen service centers; recreation programs;  
16 nutrition programs; emergency shelters for persons suffering  
17 from physical abuse or rape; services for the handicapped;  
18 sheltered workshops; vocational counseling; substance abuse  
19 counseling; and referral services.

20 3. "Contribution" includes cash, material or supplies,  
21 real estate, labor, professional services, technical  
22 assistance, or equipment. "Contribution" does not include  
23 investments made by a financial institution or insurance  
24 company in the normal course of its business.

25 4. "Crime prevention" means activities which include but  
26 are not limited to services to ex-offenders, local civilian  
27 organizations that help prevent crime or provide aid to  
28 victims of crime, mediation services aimed at resolving  
29 disputes and conflicts before they become criminal incidents,  
30 or services to juveniles who have had contact with the court  
31 or police.

32 5. "Distressed or blighted area" means an area designated  
33 or that qualifies under section 15E.194 to be designated an  
34 enterprise zone pursuant to chapter 15E, division XVIII,  
35 designated as a slum or blighted area pursuant to chapter 403,

1 or designated as a revitalization area pursuant to chapter  
2 404.

3 6. "Economic development" means the acquisition,  
4 renovation, improvement, or the furnishing or equipping of  
5 existing buildings and real estate in distressed or blighted  
6 areas of the state when this acquisition, renovation,  
7 improvement, or the furnishing or equipping of the existing  
8 buildings and real estate will result in the creation or  
9 retention of jobs within the state.

10 7. "Education" includes literacy programs, adult basic  
11 education and general educational development certificate  
12 programs, training for the physically or mentally challenged,  
13 and other educational programs deemed beneficial to the  
14 participants.

15 8. "Job training" means those activities which provide  
16 specific vocational skills including special apprenticeship or  
17 on-the-job training programs not otherwise available.

18 9. "Neighborhood area" means a specific geographic area  
19 certified by the department as having a readily identifiable  
20 residential population and which may include, but is not  
21 limited to, any of the following factors:

22 a. A sense of belonging or identity that ties residents to  
23 a given area.

24 b. Social, cultural, political, or economic activities  
25 around which people organize themselves.

26 c. The existence of cohesive organizations formed by  
27 residents.

28 d. A city with a population of less than ten thousand or a  
29 region within a rural area may be certified as a neighborhood  
30 area.

31 e. A history of acting or being treated as a distinct or  
32 cohesive unit.

33 f. The area is designated as a community empowerment area  
34 in accordance with chapter 28.

35 10. "Physical revitalization" means activities designed

1 for the physical improvement of any part or all of a  
2 neighborhood area. These activities may include, but are not  
3 limited to, such programs as commercial area revitalization;  
4 housing construction or rehabilitation; improvements to or  
5 acquisition or construction of facilities used by nonprofit  
6 organizations for community purposes or related planning and  
7 promotional activities designed to aid in those programs.

8 11. a. "Qualifying organization" means an organization  
9 performing community services or economic development  
10 activities in the state and is any of the following:

11 (1) A person or organization that is exempt from federal  
12 income taxation under the Internal Revenue Code as defined in  
13 section 422.3.

14 (2) A nonprofit corporation organized under the laws of  
15 this state.

16 (3) Designated as a community development corporation by  
17 the federal government pursuant to Title VII of the Economic  
18 Opportunity Act of 1964, Pub. L. No. 88-452.

19 (4) A community empowerment area board created in  
20 accordance with chapter 28.

21 b. "Qualifying organization" does not include any of the  
22 following:

23 (1) A unit or agency of the state, local government, or  
24 educational institution. This subparagraph shall not be  
25 interpreted to prevent a community empowerment area board from  
26 being considered a qualifying organization.

27 (2) A foundation or trust of a postsecondary educational  
28 institution.

29 (3) A church-affiliated religious organization unless the  
30 organization is without religious discrimination or is not  
31 controlled by a single denomination.

32 Sec. 3. NEW SECTION. 15.382 COMMUNITY DEVELOPMENT TAX  
33 CREDIT -- APPROVAL OF PROJECTS AND PROPOSALS.

34 1. TAX CREDIT. A business which engages in the activities  
35 of providing physical revitalization, economic development,

1 job training or education for individuals, community services,  
2 or crime prevention in the state shall receive a community  
3 development tax credit as provided in section 15.383 if the  
4 director annually approves the proposal of the business.  
5 However, a proposal for a community development tax credit  
6 shall not be approved which does not have the endorsement of  
7 the local government for the area in which the business is  
8 engaging in such activities that the proposal is consistent  
9 with the overall community or neighborhood development plan  
10 adopted by that local government.

11 2. ECONOMIC DEVELOPMENT PROJECTS. For economic  
12 development projects in distressed or blighted areas for which  
13 community development tax credits under this part may be  
14 approved, the following guidelines apply:

15 a. Applications shall be accepted from any locally based  
16 qualifying organization wishing to conduct an economic  
17 development project in a distressed or blighted area.

18 b. Applicants may not administer more than one economic  
19 development project at a time. A project may include more  
20 than one building, provided that the proposal meets all other  
21 eligibility requirements as set forth in this subsection and  
22 rules of the department.

23 c. Applications will be accepted by the department at any  
24 time of the year and will be approved on a case-by-case basis  
25 as all the necessary requirements are met and as credits  
26 become available.

27 d. A maximum authorization of one hundred fifty thousand  
28 dollars in community development tax credits will be permitted  
29 per project and no more than five percent of the credits  
30 authorized for the project shall normally be allowed for  
31 administrative and operating expenses. In unusual  
32 circumstances, a higher percentage may be allowed at the  
33 discretion of the department.

34 e. Applicants must obtain a nonbinding commitment from a  
35 prospective business or businesses willing to locate to the

1 facility and demonstrate that at least one job will be created  
2 or retained for every ten thousand dollars in credits  
3 requested. Eligible types of businesses include retail,  
4 commercial, service, and manufacturing.

5 3. COMMUNITY DEVELOPMENT PROJECTS. For community  
6 development projects, other than economic development  
7 projects, for which community development tax credits under  
8 this part may be approved, the following procedures, criteria,  
9 and priorities apply:

10 a. A proposal for a proposed program shall be submitted by  
11 a qualifying organization for carrying out a specific project  
12 consistent with the purposes of this part.

13 b. All proposals shall be made on the forms supplied by  
14 the department. Each proposal shall contain a project budget  
15 and shall identify, if possible, the items and amounts of the  
16 budget which will be provided for from contributions from any  
17 business. A project budget shall be approved by the  
18 department. The department may request any additional  
19 information it determines necessary to evaluate a proposal or  
20 plan.

21 c. Community development projects and the budgets for them  
22 may be approved for a period of up to three years at the  
23 discretion of the director.

24 d. An annual application deadline shall be determined by  
25 the department and application materials shall be distributed  
26 upon request no less than sixty days prior to the actual  
27 application deadline.

28 e. All proposals must address at least one of the  
29 following priorities in order to qualify for approval:

30 (1) The project substantially contributes to self-help  
31 efforts by residents of the neighborhood area to be served in  
32 addressing locally defined objectives.

33 (2) The project will result in the provision of essential  
34 services to low-income and moderate-income families which  
35 would not otherwise be provided in the affected neighborhood

1 area and for which there are not other resources. "Low-income  
2 and moderate-income families" means those families, including  
3 single-person households, earning no more than eighty percent  
4 of the higher of the median family income of the county or the  
5 statewide nonmetropolitan area as determined by the latest  
6 United States department of housing and urban development,  
7 section 8 income guidelines.

8 (3) The project tangibly contributes to the development of  
9 lasting cooperation and partnership efforts of neighborhood  
10 organizations and businesses.

11 f. Approval or disapproval of proposals shall be based on  
12 the following criteria:

13 (1) The director must certify an area as experiencing  
14 problems endangering the area's existence as a viable and  
15 stable neighborhood to be eligible for assistance.

16 (2) The qualifying organization submitting the proposal  
17 must demonstrate its capacity to adequately administer the  
18 project.

19 (3) There must be a demonstrated need for the program in  
20 the neighborhood area within which the project is to be  
21 carried out.

22 (4) The proposal must demonstrate that residents of the  
23 affected neighborhood area have been involved in the planning  
24 of the proposed project and describe the extent to which they  
25 will be involved in its implementation.

26 (5) The proposal must be consistent with all locally  
27 approved community or neighborhood development plans for the  
28 area.

29 (6) Proposals submitted subsequent to the first year will  
30 be evaluated on performance of the first-year project, other  
31 resources developed, continued need, and potential for  
32 eventual self-sufficiency.

33 g. In no case shall a project be approved that does not  
34 have a written endorsement of the appropriate local public  
35 authority with notification given to the community empowerment

1 board.

2 h. The maximum amount of community development tax credits  
3 allowed per project is one hundred fifty thousand dollars.

4 i. For purposes of the criterion in paragraph "f",  
5 subparagraph (1), an area is experiencing problems endangering  
6 its existence as a viable and stable neighborhood if some of  
7 the following factors are present: declining population, high  
8 percentage of people dependent on public assistance,  
9 persistent or substantial unemployment or underemployment,  
10 lower than average family incomes, financial disinvestment,  
11 insurance and financial redlining, general weakened market  
12 conditions on the neighborhood commercial strip as indicated  
13 by declining rents or vacant stores, excessive abandonment of  
14 properties, a significant percentage of neighborhood residents  
15 on fixed incomes, unsanitary or inadequate housing,  
16 overcrowding, significant proportion of the property is rental  
17 property, property speculation, high rates of crime and  
18 delinquency, high degree of drug or alcohol abuse, increasing  
19 cases of mental health problems, significant numbers of  
20 single-parent households, high degree of infant mortality and  
21 disease, disabilities, general unsanitary conditions in the  
22 area, or poor city and public utility services.

23 4. TAX CREDIT APPLICATION.

24 a. The department shall approve or disapprove applications  
25 for community development tax credits to businesses which have  
26 invested in approved economic development projects or other  
27 community development projects. The director, upon approval  
28 of an application, shall notify the director of revenue and  
29 finance and the governor of those businesses entitled to a tax  
30 credit.

31 If the business meets the criteria for eligibility, the  
32 department of economic development shall issue to the business  
33 a certification of entitlement for the community development  
34 tax credit. The certification shall contain the name of the  
35 business, address, tax identification number, the amount of



1 the credit, the tax year for which the certificate applies,  
2 and any other information required by the department of  
3 revenue and finance.

4 b. The procedures and requirements for filing a tax credit  
5 application are as follows:

6 (1) Businesses wanting to donate to a particular community  
7 development project, but first wishing to verify the  
8 eligibility of the donation for a tax credit, may submit a tax  
9 credit eligibility confirmation form to the department. The  
10 department will confirm in writing whether or not the donation  
11 qualifies for credit and how the value of the credit will be  
12 determined. This confirmation will not constitute credit  
13 approval.

14 (2) In order to qualify for credit, donations must occur  
15 during the approved project period with the exception of  
16 donated audit services, which may occur anytime during the  
17 six-month period following the project period, and must be  
18 directly related to the approved project.

19 (3) Businesses wishing to apply for credit must complete a  
20 community development tax credit application.

21 (4) Tax credit applications are to be signed by the  
22 qualifying organization and submitted directly to the  
23 department not later than one year following the date of  
24 donation.

25 (5) The order in which completed credit applications are  
26 received by the department will determine the order in which  
27 credits are approved. Facsimile copies will not be considered  
28 completed applications.

29 (6) Every transmittal of community development tax credit  
30 applications to the department must be accompanied by a  
31 project report prepared by the qualifying organization.

32 (7) The department shall examine all submitted  
33 applications and determine which donations meet the  
34 eligibility criteria.

35 c. The department shall establish by rule the methods to

1 be used in determining the value of contributions of a  
2 business.

3 Sec. 4. NEW SECTION. 15.383 TAX CREDIT -- DOCUMENTATION.

4 1. For a tax credit application approved pursuant to  
5 section 15.382, the community development tax credit available  
6 under this part may be used to reduce the tax liability  
7 imposed under chapter 422, division II, III, or V, or chapter  
8 432 or 533.

9 2. Subject to subsections 3 and 4, the amount of the  
10 community development tax credit shall be fifty percent of the  
11 contribution made by the business during the tax year.

12 3. a. The tax credit shall not exceed one hundred  
13 thousand dollars annually.

14 b. Any tax credit in excess of the business's tax  
15 liability for a tax year may be credited to the tax liability  
16 for the following five tax years or until depleted, whichever  
17 is the earlier.

18 c. A financial institution or insurance company shall not  
19 receive a tax credit for activities that are part of its  
20 normal course of business.

21 d. To be eligible to receive the tax credit, a business  
22 shall provide documentation of the contributions on which the  
23 credit is based. The documentation shall be as specified by  
24 rules of the department.

25 4. The total amount of community development tax credits  
26 that may be approved pursuant to this part shall not exceed  
27 two million dollars in any fiscal year.

28 Sec. 5. NEW SECTION. 422.11H COMMUNITY DEVELOPMENT TAX  
29 CREDIT.

30 The taxes imposed under this division, less the credits  
31 allowed under sections 422.12 and 422.12B, shall be reduced by  
32 a community development tax credit received pursuant to  
33 sections 15.380 through 15.383.

34 An individual may claim the tax credit allowed a  
35 partnership, limited liability company, S corporation, or

1 estate or trust electing to have the income taxed directly to  
2 the individual. The amount claimed by the individual shall be  
3 based upon the pro rata share of the individual's earnings of  
4 the partnership, limited liability company, S corporation, or  
5 estate or trust.

6 Any credit in excess of the tax liability for the tax year  
7 may be credited to the tax liability for the following five  
8 tax years or until depleted, whichever is earlier.

9 If the community development tax credit is taken on the tax  
10 return, a deduction shall not be allowed for Iowa tax purposes  
11 for contributions made to a community development project  
12 which are deductible for federal tax purposes.

13 Sec. 6. NEW SECTION. 422.11I QUALIFIED ENDOWMENT CREDIT.

14 1. The taxes imposed under this division, less the credits  
15 allowed under sections 422.12 and 422.12B, shall be reduced by  
16 a qualified endowment credit for making contributions to a  
17 qualified endowment. The amount of the credit equals forty  
18 percent of the present value of the aggregate amount of the  
19 charitable gift portion of a planned gift made by the taxpayer  
20 during the tax year to any qualified endowment. The maximum  
21 credit claimed by a taxpayer for contributions made from all  
22 sources in the tax year is ten thousand dollars. Any credit  
23 in excess of the taxpayer's tax liability is nonrefundable and  
24 shall not be carried forward or backward to other tax years.

25 2. For purposes of this section:

26 a. Subject to paragraph "c", "planned gift" means an  
27 irrevocable contribution to a permanent endowment held by a  
28 tax-exempt organization, or for a tax-exempt organization,  
29 when the contribution uses any of the following techniques  
30 that are authorized under the Internal Revenue Code:

31 (1) Charitable remainder unitrusts or annuity trusts, as  
32 defined in section 664 of the Internal Revenue Code.

33 (2) Pooled income fund trusts, as defined in section  
34 642(c)(5) of the Internal Revenue Code.

35 (3) Charitable lead unitrusts or annuity trusts qualifying

1 under section 170(f)(2)(B) of the Internal Revenue Code.

2 (4) Charitable gift annuities or deferred charitable gift  
3 annuities undertaken pursuant to section 1011(b) of the  
4 Internal Revenue Code.

5 (5) Charitable life estate agreements qualifying under  
6 section 170(f)(3)(B) of the Internal Revenue Code.

7 (6) Paid-up life insurance policies meeting the  
8 requirements of section 170 of the Internal Revenue Code.

9 b. "Qualified endowment" means a permanent, irrevocable  
10 fund that is held by an Iowa incorporated or established  
11 organization that is one of the following:

12 (1) A tax-exempt organization under section 501(c)(3) of  
13 the Internal Revenue Code.

14 (2) A bank or trust company that is holding the fund on  
15 behalf of a tax-exempt organization.

16 c. (1) A contribution using a technique described in  
17 paragraph "a", subparagraph (1), is not a planned gift unless  
18 the trust agreement provides that the trust may not terminate  
19 and the beneficiaries' interest in the trust may not be  
20 assigned or contributed to the qualified endowment sooner than  
21 the earlier of the following:

22 (a) The date of death of the beneficiaries.

23 (b) Five years from the date of the contribution.

24 (2) A contribution using the technique described in  
25 paragraph "a", subparagraph (4), as a deferred charitable gift  
26 annuity is not a planned gift unless the payment of the  
27 annuity is required to begin within the life expectancy of the  
28 annuitant or of the joint life expectancies of the annuitants,  
29 if more than one annuitant, as determined using the actuarial  
30 tables adopted by rule by the department in effect on the date  
31 of the contribution.

32 (3) A contribution using a technique described in  
33 paragraph "a", subparagraph (4), is not a planned gift unless  
34 the annuity agreement provides that the interest of the  
35 annuitant or annuitants in the gift annuity may not be

1 assigned to the qualified endowment sooner than the earlier of  
2 the following:

3 (a) The date of death of the annuitant or annuitants.

4 (b) Five years after the date of the contribution.

5 Sec. 7. Section 422.33, Code 2003, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. 14. The taxes imposed under this division  
8 shall be reduced by a community development tax credit  
9 received pursuant to sections 15.380 through 15.383.

10 Any credit in excess of the tax liability for the tax year  
11 may be credited to the tax liability for the following five  
12 tax years or until depleted, whichever is earlier.

13 If the community development tax credit is taken on the tax  
14 return, a deduction shall not be allowed for Iowa tax purposes  
15 for contributions made to a community development project  
16 which are deductible for federal tax purposes.

17 Sec. 8. Section 422.60, Code 2003, is amended by adding  
18 the following new subsection:

19 NEW SUBSECTION. 7. The taxes imposed under this division  
20 shall be reduced by a community development tax credit  
21 received pursuant to sections 15.380 through 15.383.

22 Any credit in excess of the tax liability for the tax year  
23 may be credited to the tax liability for the following five  
24 tax years or until depleted, whichever is earlier.

25 If the community development tax credit is taken on the tax  
26 return, a deduction shall not be allowed for Iowa tax purposes  
27 for contributions made to a community development project  
28 which are deductible for federal tax purposes.

29 Sec. 9. NEW SECTION. 432.12D COMMUNITY DEVELOPMENT TAX  
30 CREDIT.

31 The tax imposed under this chapter shall be reduced by a  
32 community development tax credit received pursuant to sections  
33 15.380 through 15.383.

34 Any credit in excess of the tax liability for the calendar  
35 year may be credited to the tax liability for the following

1 five calendar years or until depleted, whichever is earlier.

2 Sec. 10. Section 533.24, Code 2003, is amended by adding  
3 the following new unnumbered paragraph:

4 NEW UNNUMBERED PARAGRAPH. The tax imposed on moneys and  
5 credits under this section shall be reduced by a community  
6 development tax credit received pursuant to sections 15.380  
7 through 15.383. Any credit in excess of the tax liability for  
8 the tax year may be credited to the tax liability for the  
9 following five tax years or until depleted, whichever is  
10 earlier.

11 Sec. 11. EFFECTIVE AND APPLICABILITY DATE. This Act,  
12 being deemed of immediate importance, takes effect upon  
13 enactment. Sections 5 through 10 of this Act apply to tax  
14 years beginning on or after January 1, 2004.

15 EXPLANATION

16 This bill establishes a community development program  
17 administered by the department of economic development. The  
18 program is to provide tax incentives to businesses which make  
19 contributions to projects in communities or neighborhoods that  
20 would benefit by these projects. The projects involve the  
21 providing of physical revitalization, economic development,  
22 job training or education for individuals, community services,  
23 and crime prevention. Community services projects include  
24 projects providing for group and family counseling, parent and  
25 early childhood mental health services and centers, child and  
26 adult care, senior citizen centers, recreation programs,  
27 sheltered workshops, and substance abuse counseling.

28 The tax incentives are provided in the form of tax credits  
29 which may be used to offset the tax liability under the  
30 individual and corporate income taxes, financial institution  
31 franchise tax, the insurance gross premiums tax, and the  
32 credit union moneys and credits tax. The amount of the  
33 community development tax credit, subject to limitation,  
34 equals 50 percent of the contributions made by the business to  
35 the project. Not more than \$150,000 in tax credits may be

1 allowed for any one project. The maximum amount of credit a  
2 business may receive for a project is \$100,000. Projects and  
3 tax credits associated with the projects must be approved by  
4 the department of economic development. The total amount of  
5 tax credits that may be approved in a fiscal year shall not  
6 exceed \$2 million.

7 The bill also provides an individual income tax credit for  
8 contributions made by an individual to a qualified endowment.

9 A qualified endowment is a permanent, irrevocable fund that is  
10 held by an Iowa-established organization that is exempt from  
11 federal income tax, e.g. religious, charitable, educational,  
12 scientific, or literary organizations or is a bank or trust  
13 company that holds the funds for these organizations. The  
14 amount of the credit equals 40 percent of the present value of  
15 the gift not to exceed in the aggregate for the tax year  
16 \$10,000. The credit is nonrefundable.

17 The bill takes effect upon enactment and the tax credit  
18 provisions are effective January 1, 2004, for tax years  
19 beginning on or after that date.

20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

