

ECONOMIC GROWTH
SENATE FILE 2290

BY IVERSON

(COMPANION TO LSB 6928YH
BY GIPP)

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

A BILL FOR

1 An Act relating to economic development incentives under the new
2 jobs and income program, the new capital investment program,
3 and the enterprise zone program and providing an effective
4 date.

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

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SF 2290
ECONOMIC GROWTH

1 Section 1. Section 15.330, subsection 1, unnumbered
2 paragraph 1, Code 2003, is amended to read as follows:

3 If the business or group of businesses has not met more
4 than ninety percent of the job creation requirement in section
5 15.329, subsection 1, paragraph "f", it shall pay a percentage
6 of the incentive incentives received ~~under section 15.334, or~~
7 ~~if the business or group of businesses does not receive the~~
8 ~~incentive under section 15.334, then under section 15.333~~ as
9 follows:

10 Sec. 2. Section 15.331A, Code Supplement 2003, is amended
11 to read as follows:

12 15.331A SALES, SERVICES, AND USE TAX REFUND -- CONTRACTOR
13 OR SUBCONTRACTOR.

14 The eligible business or a supporting business shall be
15 entitled to a refund of the taxes paid under chapters 422 and
16 423 for gas, electricity, water, or sewer utility services,
17 goods, wares, or merchandise, or on services rendered,
18 furnished, or performed to or for a contractor or
19 subcontractor and used in the fulfillment of a written
20 contract relating to the construction or equipping of a
21 facility within the economic development area of the eligible
22 business or a supporting business. Taxes attributable to
23 intangible property and furniture and furnishings shall not be
24 refunded.

25 For purposes of this section, a third-party developer
26 constructing or renovating and leasing a facility to an
27 eligible business shall receive the refund for such taxes paid
28 as authorized under this section in lieu of the receipt of the
29 refund by the eligible business, provided the third-party
30 developer is a party to the agreement described in section
31 15.330.

32 To receive the refund a claim shall be filed by the
33 eligible business, third-party developer, or a supporting
34 business with the department of revenue as follows:

35 1. The contractor or subcontractor shall state under oath,

1 on forms provided by the department, the amount of the sales
2 of goods, wares, or merchandise or services rendered,
3 furnished, or performed including water, sewer, gas, and
4 electric utility services for use in the economic development
5 area upon which sales or use tax has been paid prior to the
6 project completion, and shall file the forms with the eligible
7 business, third-party developer, or supporting business before
8 final settlement is made.

9 2. The eligible business, third-party developer, or a
10 supporting business shall, not more than one year after
11 project completion, make application to the department for any
12 refund of the amount of the taxes paid pursuant to chapter 422
13 or 423 upon any goods, wares, or merchandise, or services
14 rendered, furnished, or performed, including water, sewer,
15 gas, and electric utility services. The application shall be
16 made in the manner and upon forms to be provided by the
17 department, and the department shall audit the claim and, if
18 approved, issue a warrant to the eligible business, third-
19 party developer, or supporting business in the amount of the
20 sales or use tax which has been paid to the state of Iowa
21 under a contract. A claim filed by the eligible business,
22 third-party developer, or a supporting business in accordance
23 with this section shall not be denied by reason of a
24 limitation provision set forth in chapter 421, 422, or 423.

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

30 Sec. 3. Section 15.333, subsection 1, Code Supplement
31 2003, is amended to read as follows:

32 1. An eligible business may claim a corporate tax credit
33 up to a maximum of ten percent of the new investment which is
34 directly related to new jobs created by the location or
35 expansion of an eligible business under the program. Any

1 credit in excess of the tax liability for the tax year may be
2 credited to the tax liability for the following seven years or
3 until depleted, whichever occurs earlier. Subject to prior
4 approval by the department of economic development in
5 consultation with the department of revenue, an eligible
6 business whose project primarily involves the production of
7 value-added agricultural products may elect to receive a
8 refund of all or a portion of an unused tax credit. For
9 purposes of this section, an eligible business includes a
10 cooperative described in section 521 of the Internal Revenue
11 Code which is not required to file an Iowa corporate income
12 tax return. The refund may be used against a tax liability
13 imposed under chapter 422, division II, III, or V. If the
14 business is a partnership, S corporation, limited liability
15 company, cooperative organized under chapter 501 and filing as
16 a partnership for federal tax purposes, or estate or trust
17 electing to have the income taxed directly to the individual,
18 an individual may claim the tax credit allowed. The amount
19 claimed by the individual shall be based upon the pro rata
20 share of the individual's earnings of the partnership, S
21 corporation, limited liability company, cooperative organized
22 under chapter 501 and filing as a partnership for federal tax
23 purposes, or estate or trust.

24 1A. For purposes of this section, "new investment directly
25 related to new jobs created by the location or expansion of an
26 eligible business under the program" means the any of the
27 following:

28 a. The cost of machinery and equipment, as defined in
29 section 427A.1, subsection 1, paragraphs "e" and "j",
30 purchased for use in the operation of the eligible business,
31 the purchase price of which has been depreciated in accordance
32 with generally accepted accounting principles, and the cost of
33 improvements made to real property which is used in the
34 operation of the eligible business.

35 b. The annual base rent paid to a third-party developer by

1 an eligible business for a period not to exceed ten years,
2 provided the cumulative cost of the base rent payments for
3 that period does not exceed the cost of the land and the
4 third-party developer's costs to build or renovate the
5 building for the eligible business. The eligible business
6 shall enter into a lease agreement with the third-party
7 developer for a minimum of ten years.

8 Sec. 4. Section 15.333A, subsection 1, Code 2003, is
9 amended to read as follows:

10 1. An eligible business may claim an insurance premium tax
11 credit up to a maximum of ten percent of the new investment
12 directly related to new jobs created by the location or
13 expansion of an eligible business under the program. Any
14 credit in excess of the tax liability for the tax year may be
15 credited to the tax liability for the following seven years or
16 until depleted, whichever occurs earlier.

17 ~~For purposes of this section, "new investment directly~~
18 ~~related to new jobs created by the location or expansion of an~~
19 ~~eligible business under the program" means the cost of~~
20 ~~machinery and equipment, as defined in section 427A.1,~~
21 ~~subsection 1, paragraphs "e" and "j", purchased for use in the~~
22 ~~operation of the eligible business, the purchase price of~~
23 ~~which has been depreciated in accordance with generally~~
24 ~~accepted accounting principles, and the cost of improvements~~
25 ~~made to real property which is used in the operation of the~~
26 ~~eligible business.~~

27 For purposes of this section, the purchase price of real
28 property and any buildings and structures located on the real
29 property is considered a new investment in the location or
30 expansion of an eligible business. However, if within five
31 years of purchase, the eligible business sells, disposes of,
32 razes, or otherwise renders unusable all or a part of the
33 land, buildings, or other existing structures for which an
34 insurance premium tax credit was claimed under this section,
35 the insurance premium tax liability of the eligible business

1 for the year in which all or part of the property is sold,
2 disposed of, razed, or otherwise rendered unusable shall be
3 increased by one of the following amounts:

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

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

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

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

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

19 1A. For purposes of this section, "new investment directly
20 related to new jobs created by the location or expansion of an
21 eligible business under the program" means any of the
22 following:

23 a. The cost of machinery and equipment, as defined in
24 section 427A.1, subsection 1, paragraphs "e" and "j",
25 purchased for use in the operation of the eligible business,
26 the purchase price of which has been depreciated in accordance
27 with generally accepted accounting principles, and the cost of
28 improvements made to real property which is used in the
29 operation of the eligible business.

30 b. The annual base rent paid to a third-party developer by
31 an eligible business for a period not to exceed ten years,
32 provided the cumulative cost of the base rent payments for
33 that period does not exceed the cost of the land and the
34 third-party developer's costs to build or renovate the
35 building for the eligible business. The eligible business

1 shall enter into a lease agreement with the third-party
2 developer for a minimum of ten years.

3 Sec. 5. Section 15.385, subsection 3, paragraph b, Code
4 Supplement 2003, is amended to read as follows:

5 b. For purposes of this subsection, "new investment
6 directly related to new jobs created by the location or
7 expansion of an eligible business under the program" means the
8 cost of machinery and equipment, as defined in section 427A.1,
9 subsection 1, paragraphs "e" and "j", purchased for use in the
10 operation of the eligible business, the purchase price of
11 which has been depreciated in accordance with generally
12 accepted accounting principles, the purchase price of real
13 property and any buildings and structures located on the real
14 property, and the cost of improvements made to real property
15 which is used in the operation of the eligible business. "New
16 investment directly related to new jobs created by the
17 location or expansion of an eligible business under the
18 program" also means the annual base rent paid to a third-party
19 developer by an eligible business for a period not to exceed
20 ten years, provided the cumulative cost of the base rent
21 payments for that period does not exceed the cost of the land
22 and the third-party developer's costs to build or renovate the
23 building for the eligible business. The eligible business
24 shall enter into a lease agreement with the third-party
25 developer for a minimum of ten years. If, however, within
26 five years of purchase, the eligible business sells, disposes
27 of, razes, or otherwise renders unusable all or a part of the
28 land, buildings, or other existing structures for which tax
29 credit was claimed under this section, the income tax
30 liability of the eligible business for the year in which all
31 or part of the property is sold, disposed of, razed, or
32 otherwise rendered unusable shall be increased by one of the
33 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 Sec. 6. Section 15.385, subsection 4, paragraph b, Code
15 Supplement 2003, is amended to read as follows:

16 b. For purposes of this subsection, "new investment
17 directly related to new jobs created by the location or
18 expansion of an eligible business under the program" means the
19 cost of machinery and equipment, as defined in section 427A.1,
20 subsection 1, paragraphs "e" and "j", purchased for use in the
21 operation of the eligible business, the purchase price of
22 which has been depreciated in accordance with generally
23 accepted accounting principles, the purchase price of real
24 property and any buildings and structures located on the real
25 property, and the cost of improvements made to real property
26 which is used in the operation of the eligible business. "New
27 investment directly related to new jobs created by the
28 location or expansion of an eligible business under the
29 program" also means the annual base rent paid to a third-party
30 developer by an eligible business for a period not to exceed
31 ten years, provided the cumulative cost of the base rent
32 payments for that period does not exceed the cost of the land
33 and the third-party developer's costs to build or renovate the
34 building for the eligible business. The eligible business
35 shall enter into a lease agreement with the third-party

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

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

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

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

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

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

25 Sec. 7. Section 15E.195, Code 2003, is amended to read as
26 follows:

27 15E.195 ENTERPRISE ZONE COMMISSION.

28 1. A county which designates an enterprise zone pursuant
29 to section 15E.194, subsection 1, and in which an eligible
30 enterprise zone is certified shall establish an enterprise
31 zone commission to review applications from qualified
32 businesses located within or requesting to locate within an
33 enterprise zone designated pursuant to section 15E.194,
34 subsection 1, to receive incentives or assistance as provided
35 in section 15E.196. The enterprise zone commission shall also

1 review applications from qualified housing businesses
2 requesting to receive incentives or assistance as provided in
3 section 15E.193B. ~~The enterprise zone commission shall also~~
4 ~~review applications from qualified development businesses~~
5 ~~requesting to receive incentives or assistance as provided in~~
6 ~~section 15E.193C.~~ The commission shall consist of nine
7 members. Five of these members shall consist of one
8 representative of the board of supervisors, one member with
9 economic development expertise chosen by the department of
10 economic development, one representative of the county zoning
11 board, one member of the local community college board of
12 directors, and one representative of the local workforce
13 development center. These five members shall select the
14 remaining four members. If the enterprise zone consists of an
15 area meeting the requirements for eligibility for an urban or
16 rural enterprise community under Title XIII of the federal
17 Omnibus Budget Reconciliation Act of 1993, one of the
18 remaining four members shall be a representative of that
19 community. A county shall have only one enterprise zone
20 commission to review applications for incentives and
21 assistance for businesses located within or requesting to
22 locate within a certified enterprise zone designated pursuant
23 to section 15E.194, subsection 1.

24 2. A city with a population of twenty-four thousand or
25 more which designates an enterprise zone pursuant to section
26 15E.194, subsection 2, and in which an eligible enterprise
27 zone is certified shall establish an enterprise zone
28 commission to review applications from qualified businesses
29 located within or requesting to locate within an enterprise
30 zone to receive incentives or assistance as provided in
31 section 15E.196. The enterprise zone commission shall review
32 applications from qualified housing businesses requesting to
33 receive incentives or assistance as provided in section
34 15E.193B. ~~The enterprise zone commission shall also review~~
35 ~~applications from qualified development businesses requesting~~

~~1 to-receive-incentives-or-assistance-as-provided-in-section~~
2 ~~15E.193E.~~ The commission shall consist of nine members. Six
3 of these members shall consist of one representative of an
4 international labor organization, one member with economic
5 development expertise chosen by the department of economic
6 development, one representative of the city council, one
7 member of the local community college board of directors, one
8 member of the city planning and zoning commission, and one
9 representative of the local workforce development center.
10 These six members shall select the remaining three members.
11 If the enterprise zone consists of an area meeting the
12 requirements for eligibility for an urban enterprise community
13 under Title XIII of the federal Omnibus Budget Reconciliation
14 Act of 1993, one of the remaining three members shall be a
15 representative of that community. If a city contiguous to the
16 city designating the enterprise zone is included in an
17 enterprise zone, a representative of the contiguous city,
18 chosen by the city council, shall be a member of the
19 commission. A city in which an eligible enterprise zone is
20 certified shall have only one enterprise zone commission. If
21 a city has established an enterprise zone commission prior to
22 July 1, 1998, the city may petition to the department of
23 economic development to change the structure of the existing
24 commission.

25 3. The commission may adopt more stringent requirements,
26 including requirements related to compensation and benefits,
27 for a business to be eligible for incentives or assistance
28 than provided in sections 15E.1937 and 15E.193B7-~~and-15E.193E.~~
29 The commission may develop as an additional requirement that
30 preference in hiring be given to individuals who live within
31 the enterprise zone. The commission shall work with the local
32 workforce development center to determine the labor
33 availability in the area. The commission shall examine and
34 evaluate building codes and zoning in the enterprise zone and
35 make recommendations to the appropriate governing body in an

1 effort to promote more affordable housing development.

2 4. If the enterprise zone commission determines that a
3 business qualifies and is eligible to receive incentives or
4 assistance as provided in section 15E.193B~~7~~-15E-193E~~7~~ or
5 15E.196, the commission shall submit an application for
6 incentives or assistance to the department of economic
7 development. The department may approve, defer, or deny the
8 application.

9 5. In making its decision, the commission or department
10 shall consider the impact of the eligible business on other
11 businesses in competition with it and compare the compensation
12 package of businesses in competition with the business being
13 considered for incentives or assistance. The commission or
14 department shall make a good faith effort to identify existing
15 Iowa businesses within an industry in competition with the
16 business being considered for incentives or assistance. The
17 commission or department shall also make a good faith effort
18 to determine the probability that the proposed incentives or
19 assistance will displace employees of existing businesses. In
20 determining the impact on businesses in competition with the
21 business seeking incentives or assistance, jobs created as a
22 result of other jobs being displaced elsewhere in the state
23 shall not be considered direct jobs created.

24 However, if the commission or department finds that an
25 eligible business has a record of violations of the law,
26 including but not limited to environmental and worker safety
27 statutes, rules, and regulations, over a period of time that
28 tends to show a consistent pattern, the eligible business
29 shall not qualify for incentives or assistance under section
30 15E.193B~~7~~-15E-193E~~7~~ or 15E.196, unless the commission or
31 department finds that the violations did not seriously affect
32 public health or safety or the environment, or if it did that
33 there were mitigating circumstances. In making the findings
34 and determinations regarding violations, mitigating
35 circumstances, and whether an eligible business is eligible

1 for incentives or assistance under section 15E.193B~~7~~-~~15E.193C~~~~7~~
2 or 15E.196, the commission or department shall be exempt from
3 chapter 17A. If requested by the commission or department,
4 the business shall provide copies of materials documenting the
5 type of violation, any fees or penalties assessed, court
6 filings, final disposition of any findings, and any other
7 information which would assist the commission or department in
8 assessing the nature of any violation.

9 6. A business that is approved to receive incentives or
10 assistance shall, for the length of its designation as an
11 enterprise zone business, certify annually to the county or
12 city, as applicable, and the department of economic
13 development its compliance with the requirements of section
14 15E.193~~7~~ or 15E.193B~~7~~-~~or~~-~~15E.193C~~.

15 Sec. 8. Section 15E.196, subsection 7, Code Supplement
16 2003, is amended by striking the subsection.

17 Sec. 9. Section 15E.193C, Code Supplement 2003, is
18 repealed.

19 Sec. 10. EFFECTIVE DATE. This Act, being deemed of
20 immediate importance, takes effect upon enactment.

21 EXPLANATION

22 This bill relates to economic development incentives under
23 the new jobs and income program, the new capital investment
24 program, and the enterprise zone program.

25 The bill requires agreements under the new jobs and income
26 program to include payback provisions for all incentives
27 received under the program if job creation requirements are
28 not met.

29 The bill amends the sales, services, and use tax refund
30 under the new jobs and income program. The bill provides that
31 a third-party developer constructing or renovating and leasing
32 a facility to an eligible business shall receive the refund
33 under the program for taxes paid by the developer in lieu of
34 the receipt of the refund by the eligible business provided
35 that the third-party developer is a party to the new jobs and

1 income program agreement.

2 The bill amends the investment tax credit and the insurance
3 premium tax credit under the new jobs and income program and
4 under the new capital investment program. The bill provides
5 that, in addition to the current meaning under the programs
6 for "new investment directly related to new jobs created by
7 the location or expansion of an eligible business under the
8 program", the term also means the annual base rent paid to a
9 third-party developer by an eligible business for a period not
10 to exceed 10 years, provided the cumulative cost of the base
11 rent payments for that period does not exceed the cost of the
12 land and the third-party developer's costs to build or
13 renovate the building for the eligible business. The eligible
14 business shall enter into a lease agreement with the third-
15 party developer for a minimum of 10 years.

16 The bill repeals a portion of the enterprise zone program
17 which allows an eligible development business to receive
18 incentives and assistance under the program. The bill makes
19 conforming amendments.

20 The bill takes effect upon enactment.

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SENATE FILE 2290

S-5096

1 Amend Senate File 2290 as follows:
2 1. By striking page 1, line 10, through page 2,
3 line 29, and inserting the following:
4 "Sec. ____ . NEW SECTION. 15.331C CORPORATE TAX
5 CREDIT -- FOR CERTAIN SALES TAXES PAID BY DEVELOPER.
6 1. An eligible business or a supporting business
7 may claim a corporate tax credit in an amount equal to
8 the taxes paid by a third-party developer under
9 chapters 422 and 423 for gas, electricity, water, or
10 sewer utility services, goods, wares, or merchandise,
11 or on services rendered, furnished, or performed to or
12 for a contractor or subcontractor and used in the
13 fulfillment of a written contract relating to the
14 construction or equipping of a facility with the
15 economic development area of the eligible business or
16 supporting business. Taxes attributable to intangible
17 property and furniture and furnishings shall not be
18 included, but taxes attributable to racks, shelving,
19 and conveyor equipment to be used in a warehouse or
20 distribution center shall be included. Any credit in
21 excess of the tax liability for the tax year may be
22 credited to the tax liability for the following seven
23 years or until depleted, whichever occurs earlier. An
24 eligible business may elect to receive a refund of all
25 or a portion of an unused tax credit.
26 2. A third-party developer shall state under oath,
27 on forms provided by the department of economic
28 development, the amount of taxes paid as described in
29 subsection 1 and shall submit such forms to the
30 department. After receiving the form from the third-
31 party developer, the department shall issue a tax
32 credit to the eligible business or supporting
33 business. The eligible business or supporting
34 business shall not claim a tax credit under this
35 section unless a tax credit certificate issued by the
36 department of economic development is attached to the
37 taxpayer's tax return for the tax year for which the
38 tax credit is claimed. A tax credit certificate shall
39 contain the eligible business's or supporting
40 business's name, address, tax identification number,
41 the amount of the tax credit, and other information
42 required by the department of revenue."
43 2. Page 4, line 7, by striking the word "ten" and
44 inserting the following: "five".
45 3. Page 6, line 2, by striking the word "ten" and
46 inserting the following: "five".
47 4. Page 6, by inserting after line 2 the
48 following:
49 "Sec. ____ . Section 15.385, Code Supplement 2003,
50 is amended by adding the following new subsection:

S-5096

S-5096

Page 2

1 NEW SUBSECTION. 1A. Corporate tax credit for
2 certain sales taxes paid by a developer, as provided
3 in section 15.331C."

4 5. Page 6, line 25, by striking the word "ten"
5 and inserting the following: "five".

6 6. Page 8, line 1, by striking the word "ten" and
7 inserting the following: "five".

By KEN VEENSTRA

S-5096 FILED MARCH 16, 2004

ADOPTED

1 Section 1. Section 15.330, subsection 1, unnumbered
2 paragraph 1, Code 2003, is amended to read as follows:

3 If the business or group of businesses has not met more
4 than ninety percent of the job creation requirement in section
5 15.329, subsection 1, paragraph "f", it shall pay a percentage
6 of the ~~incentive~~ incentives received ~~under section 15.334, or~~
7 ~~if the business or group of businesses does not receive the~~
8 ~~incentive under section 15.334, then under section 15.333~~ as
9 follows:

10 Sec. 2. NEW SECTION. 15.331C CORPORATE TAX CREDIT -- FOR
11 CERTAIN SALES TAXES PAID BY DEVELOPER.

12 1. An eligible business or a supporting business may claim
13 a corporate tax credit in an amount equal to the taxes paid by
14 a third-party developer under chapters 422 and 423 for gas,
15 electricity, water, or sewer utility services, goods, wares,
16 or merchandise, or on services rendered, furnished, or
17 performed to or for a contractor or subcontractor and used in
18 the fulfillment of a written contract relating to the
19 construction or equipping of a facility with the economic
20 development area of the eligible business or supporting
21 business. Taxes attributable to intangible property and
22 furniture and furnishings shall not be included, but taxes
23 attributable to racks, shelving, and conveyor equipment to be
24 used in a warehouse or distribution center shall be included.
25 Any credit in excess of the tax liability for the tax year may
26 be credited to the tax liability for the following seven years
27 or until depleted, whichever occurs earlier. An eligible
28 business may elect to receive a refund of all or a portion of
29 an unused tax credit.

30 2. A third-party developer shall state under oath, on
31 forms provided by the department of economic development, the
32 amount of taxes paid as described in subsection 1 and shall
33 submit such forms to the department. After receiving the form
34 from the third-party developer, the department shall issue a
35 tax credit to the eligible business or supporting business.

1 The eligible business or supporting business shall not claim a
2 tax credit under this section unless a tax credit certificate
3 issued by the department of economic development is attached
4 to the taxpayer's tax return for the tax year for which the
5 tax credit is claimed. A tax credit certificate shall contain
6 the eligible business's or supporting business's name,
7 address, tax identification number, the amount of the tax
8 credit, and other information required by the department of
9 revenue.

10 Sec. 3. Section 15.333, subsection 1, Code Supplement
11 2003, is amended to read as follows:

12 1. An eligible business may claim a corporate tax credit
13 up to a maximum of ten percent of the new investment which is
14 directly related to new jobs created by the location or
15 expansion of an eligible business under the program. Any
16 credit in excess of the tax liability for the tax year may be
17 credited to the tax liability for the following seven years or
18 until depleted, whichever occurs earlier. Subject to prior
19 approval by the department of economic development in
20 consultation with the department of revenue, an eligible
21 business whose project primarily involves the production of
22 value-added agricultural products may elect to receive a
23 refund of all or a portion of an unused tax credit. For
24 purposes of this section, 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. The refund may be used against a tax liability
28 imposed under chapter 422, division II, III, or V. If the
29 business is a partnership, S corporation, limited liability
30 company, cooperative organized under chapter 501 and filing as
31 a partnership for federal tax purposes, or estate or trust
32 electing to have the income taxed directly to the individual,
33 an individual may claim the tax credit allowed. The amount
34 claimed by the individual shall be based upon the pro rata
35 share of the individual's earnings of the partnership, S

1 corporation, limited liability company, cooperative organized
2 under chapter 501 and filing as a partnership for federal tax
3 purposes, or estate or trust.

4 1A. For purposes of this section, "new investment directly
5 related to new jobs created by the location or expansion of an
6 eligible business under the program" means ~~the~~ any of the
7 following:

8 a. The cost of machinery and equipment, as defined in
9 section 427A.1, subsection 1, paragraphs "e" and "j",
10 purchased for use in the operation of the eligible business,
11 the purchase price of which has been depreciated in accordance
12 with generally accepted accounting principles, and the cost of
13 improvements made to real property which is used in the
14 operation of the eligible business.

15 b. The annual base rent paid to a third-party developer by
16 an eligible business for a period not to exceed ten years,
17 provided the cumulative cost of the base rent payments for
18 that period does not exceed the cost of the land and the
19 third-party developer's costs to build or renovate the
20 building for the eligible business. The eligible business
21 shall enter into a lease agreement with the third-party
22 developer for a minimum of five years.

23 Sec. 4. Section 15.333A, subsection 1, Code 2003, is
24 amended to read as follows:

25 1. An eligible business may claim an insurance premium tax
26 credit up to a maximum of ten percent of the new investment
27 directly related to new jobs created by the location or
28 expansion of an eligible business under the program. Any
29 credit in excess of the tax liability for the tax year may be
30 credited to the tax liability for the following seven years or
31 until depleted, whichever occurs earlier.

32 ~~For purposes of this section, "new investment directly~~
33 ~~related to new jobs created by the location or expansion of an~~
34 ~~eligible business under the program" means the cost of~~
35 ~~machinery and equipment, as defined in section 427A.1,~~

1 subsection-17-paragraphs-"e"-and-"j",-purchased-for-use-in-the
2 operation-of-the-eligible-business,-the-purchase-price-of
3 which-has-been-depreciated-in-accordance-with-generally
4 accepted-accounting-principles,-and-the-cost-of-improvements
5 made-to-real-property-which-is-used-in-the-operation-of-the
6 eligible-business-

7 For purposes of this section, the purchase price of real
8 property and any buildings and structures located on the real
9 property is considered a new investment in the location or
10 expansion of an eligible business. However, if within five
11 years of purchase, the eligible business sells, disposes of,
12 razes, or otherwise renders unusable all or a part of the
13 land, buildings, or other existing structures for which an
14 insurance premium tax credit was claimed under this section,
15 the insurance premium tax liability of the eligible business
16 for the year in which all or part of the property is sold,
17 disposed of, razed, or otherwise rendered unusable shall be
18 increased by one of the following amounts:

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

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

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

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

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

34 1A. For purposes of this section, "new investment directly
35 related to new jobs created by the location or expansion of an

1 eligible business under the program" means any of the
2 following:

3 a. The cost of machinery and equipment, as defined in
4 section 427A.1, subsection 1, paragraphs "e" and "j",
5 purchased for use in the operation of the eligible business,
6 the purchase price of which has been depreciated in accordance
7 with generally accepted accounting principles, and the cost of
8 improvements made to real property which is used in the
9 operation of the eligible business.

10 b. The annual base rent paid to a third-party developer by
11 an eligible business for a period not to exceed ten years,
12 provided the cumulative cost of the base rent payments for
13 that period does not exceed the cost of the land and the
14 third-party developer's costs to build or renovate the
15 building for the eligible business. The eligible business
16 shall enter into a lease agreement with the third-party
17 developer for a minimum of five years.

18 Sec. 5. Section 15.385, Code Supplement 2003, is amended
19 by adding the following new subsection:

20 NEW SUBSECTION. 1A. Corporate tax credit for certain
21 sales taxes paid by a developer, as provided in section
22 15.331C.

23 Sec. 6. Section 15.385, subsection 3, paragraph b, Code
24 Supplement 2003, is amended to read as follows:

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

1 investment directly related to new jobs created by the
2 location or expansion of an eligible business under the
3 program" also means the annual base rent paid to a third-party
4 developer by an eligible business for a period not to exceed
5 ten years, provided the cumulative cost of the base rent
6 payments for that period does not exceed the cost of the land
7 and the third-party developer's costs to build or renovate the
8 building for the eligible business. The eligible business
9 shall enter into a lease agreement with the third-party
10 developer for a minimum of five years. If, however, within
11 five years of purchase, the eligible business sells, disposes
12 of, razes, or otherwise renders unusable all or a part of the
13 land, buildings, or other existing structures for which tax
14 credit was claimed under this section, the income tax
15 liability of the eligible business for the year in which all
16 or part of the property is sold, disposed of, razed, or
17 otherwise rendered unusable shall be increased by one of the
18 following amounts:

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

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

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

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

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

34 Sec. 7. Section 15.385, subsection 4, paragraph b, Code
35 Supplement 2003, is amended to read as follows:

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

- 30 (1) One hundred percent of the tax credit claimed under
31 this subsection if the property ceases to be eligible for the
32 tax credit within one full year after being placed in service.
33 (2) Eighty percent of the tax credit claimed under this
34 subsection if the property ceases to be eligible for the tax
35 credit within two full years after being placed in service.

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

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

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

10 Sec. 8. Section 15E.195, Code 2003, is amended to read as
11 follows:

12 15E.195 ENTERPRISE ZONE COMMISSION.

13 1. A county which designates an enterprise zone pursuant
14 to section 15E.194, subsection 1, and in which an eligible
15 enterprise zone is certified shall establish an enterprise
16 zone commission to review applications from qualified
17 businesses located within or requesting to locate within an
18 enterprise zone designated pursuant to section 15E.194,
19 subsection 1, to receive incentives or assistance as provided
20 in section 15E.196. The enterprise zone commission shall also
21 review applications from qualified housing businesses
22 requesting to receive incentives or assistance as provided in
23 section 15E.193B. ~~The enterprise zone commission shall also~~
24 ~~review applications from qualified development businesses~~
25 ~~requesting to receive incentives or assistance as provided in~~
26 ~~section 15E.193C.~~ The commission shall consist of nine
27 members. Five of these members shall consist of one
28 representative of the board of supervisors, one member with
29 economic development expertise chosen by the department of
30 economic development, one representative of the county zoning
31 board, one member of the local community college board of
32 directors, and one representative of the local workforce
33 development center. These five members shall select the
34 remaining four members. If the enterprise zone consists of an
35 area meeting the requirements for eligibility for an urban or

1 rural enterprise community under Title XIII of the federal
2 Omnibus Budget Reconciliation Act of 1993, one of the
3 remaining four members shall be a representative of that
4 community. A county shall have only one enterprise zone
5 commission to review applications for incentives and
6 assistance for businesses located within or requesting to
7 locate within a certified enterprise zone designated pursuant
8 to section 15E.194, subsection 1.

9 2. A city with a population of twenty-four thousand or
10 more which designates an enterprise zone pursuant to section
11 15E.194, subsection 2, and in which an eligible enterprise
12 zone is certified shall establish an enterprise zone
13 commission to review applications from qualified businesses
14 located within or requesting to locate within an enterprise
15 zone to receive incentives or assistance as provided in
16 section 15E.196. The enterprise zone commission shall review
17 applications from qualified housing businesses requesting to
18 receive incentives or assistance as provided in section
19 15E.193B. ~~The enterprise zone commission shall also review~~
20 ~~applications from qualified development businesses requesting~~
21 ~~to receive incentives or assistance as provided in section~~
22 ~~15E.193C.~~ The commission shall consist of nine members. Six
23 of these members shall consist of one representative of an
24 international labor organization, one member with economic
25 development expertise chosen by the department of economic
26 development, one representative of the city council, one
27 member of the local community college board of directors, one
28 member of the city planning and zoning commission, and one
29 representative of the local workforce development center.
30 These six members shall select the remaining three members.
31 If the enterprise zone consists of an area meeting the
32 requirements for eligibility for an urban enterprise community
33 under Title XIII of the federal Omnibus Budget Reconciliation
34 Act of 1993, one of the remaining three members shall be a
35 representative of that community. If a city contiguous to the

1 city designating the enterprise zone is included in an
2 enterprise zone, a representative of the contiguous city,
3 chosen by the city council, shall be a member of the
4 commission. A city in which an eligible enterprise zone is
5 certified shall have only one enterprise zone commission. If
6 a city has established an enterprise zone commission prior to
7 July 1, 1998, the city may petition to the department of
8 economic development to change the structure of the existing
9 commission.

10 3. The commission may adopt more stringent requirements,
11 including requirements related to compensation and benefits,
12 for a business to be eligible for incentives or assistance
13 than provided in sections 15E.193~~7~~ and 15E.193B~~7~~ and ~~15E.193E~~.
14 The commission may develop as an additional requirement that
15 preference in hiring be given to individuals who live within
16 the enterprise zone. The commission shall work with the local
17 workforce development center to determine the labor
18 availability in the area. The commission shall examine and
19 evaluate building codes and zoning in the enterprise zone and
20 make recommendations to the appropriate governing body in an
21 effort to promote more affordable housing development.

22 4. If the enterprise zone commission determines that a
23 business qualifies and is eligible to receive incentives or
24 assistance as provided in section 15E.193B~~7~~ ~~15E.193E~~ or
25 15E.196, the commission shall submit an application for
26 incentives or assistance to the department of economic
27 development. The department may approve, defer, or deny the
28 application.

29 5. In making its decision, the commission or department
30 shall consider the impact of the eligible business on other
31 businesses in competition with it and compare the compensation
32 package of businesses in competition with the business being
33 considered for incentives or assistance. The commission or
34 department shall make a good faith effort to identify existing
35 Iowa businesses within an industry in competition with the

1 business being considered for incentives or assistance. The
2 commission or department shall also make a good faith effort
3 to determine the probability that the proposed incentives or
4 assistance will displace employees of existing businesses. In
5 determining the impact on businesses in competition with the
6 business seeking incentives or assistance, jobs created as a
7 result of other jobs being displaced elsewhere in the state
8 shall not be considered direct jobs created.

9 However, if the commission or department finds that an
10 eligible business has a record of violations of the law,
11 including but not limited to environmental and worker safety
12 statutes, rules, and regulations, over a period of time that
13 tends to show a consistent pattern, the eligible business
14 shall not qualify for incentives or assistance under section
15 15E.193B~~7~~-~~15E~~-~~193E~~~~7~~ or 15E.196, unless the commission or
16 department finds that the violations did not seriously affect
17 public health or safety or the environment, or if it did that
18 there were mitigating circumstances. In making the findings
19 and determinations regarding violations, mitigating
20 circumstances, and whether an eligible business is eligible
21 for incentives or assistance under section 15E.193B~~7~~-~~15E~~-~~193E~~~~7~~
22 or 15E.196, the commission or department shall be exempt from
23 chapter 17A. If requested by the commission or department,
24 the business shall provide copies of materials documenting the
25 type of violation, any fees or penalties assessed, court
26 filings, final disposition of any findings, and any other
27 information which would assist the commission or department in
28 assessing the nature of any violation.

29 6. A business that is approved to receive incentives or
30 assistance shall, for the length of its designation as an
31 enterprise zone business, certify annually to the county or
32 city, as applicable, and the department of economic
33 development its compliance with the requirements of section
34 15E.193~~7~~ or 15E.193B~~7~~-~~or~~-~~15E~~-~~193E~~.

35 Sec. 9. Section 15E.196, subsection 7, Code Supplement

1 2003, is amended by striking the subsection.

2 Sec. 10. Section 15E.193C, Code Supplement 2003, is
3 repealed.

4 Sec. 11. EFFECTIVE DATE. This Act, being deemed of
5 immediate importance, takes effect upon enactment.

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SENATE FILE 2290**H-8254**

1 Amend Senate File 2290, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 12, by inserting after line 1 the
4 following:

5 "Sec. ____ . NEW SECTION. 16B.1 SHORT TITLE.

6 This Act shall be referred to as the "Fiscal
7 Disclosure and Taxpayer Protection Act".

8 Sec. ____ . NEW SECTION. 16B.2 FINDINGS AND
9 INTENT.

10 The state finds that, despite an increase in
11 spending for the purpose of economic development, the
12 real wage levels of the state's average working
13 families have suffered years of decline and
14 stagnation.

15 The state also finds that when workers receive low
16 wages, such jobs often impose hidden taxpayer costs
17 upon the state's citizens, in the form of medical
18 assistance, food stamps, earned income tax credits,
19 utility and rent assistance, child care assistance,
20 and other forms of assistance provided to the working
21 poor and their families.

22 Therefore, in order to ensure that the state's
23 economic development resources are achieving their
24 desired effect of raising living standards for the
25 state's working families, the state finds that it is
26 necessary to collect and analyze additional
27 information and to enact certain safeguards in its
28 development assistance.

29 Sec. ____ . NEW SECTION. 16B.3 DEFINITIONS.

30 1. "Corporate parent" means any person or legal
31 entity, organization, business, partnership, group, or
32 corporation entity recognized by law, or combination
33 thereof, that possesses, owns, or controls an interest
34 greater than fifty percent of a recipient corporation.

35 2. "Date of assistance" means the date upon which
36 a granting body transmits the first dollar value of
37 development assistance to a recipient corporation.

38 3. "Development assistance" means any form of
39 public assistance, including tax expenditures, made
40 for the purpose of stimulating the economic
41 development of a given corporation, industry,
42 geographic jurisdiction, or other subset of the
43 state's economy, including but not limited to
44 assistance in the form of industrial development
45 bonds, loans, loan guarantees, revolving loan funds,
46 bond bank programs, enterprise zones, tax increment
47 financing, property tax exemptions or abatements,
48 grants, fee waivers, infrastructure whose principal
49 beneficiary is a single business or defined group of
50 businesses at the time it is built or improved,

H-8254

H-8254

Page 2

1 matching funds, tax abatements, tax credits and tax
2 discounts of every kind, including corporate income
3 tax, personal income tax, insurance premium tax, sales
4 and use taxes, job creation credits and deductions,
5 industrial investment credits and deductions, and
6 research and development tax credits and deductions.

7 4. "Full-time job" means a job at which a new
8 employee works for a recipient corporation for at
9 least thirty-five hours per week on average.

10 5. "Granting body" means any public entity within
11 the state, including local governments, regional
12 development organizations, state and local public
13 corporations, the state government, and any state
14 government department or agency, which provides
15 development assistance, including but not limited to
16 the department of economic development and the Iowa
17 finance authority.

18 6. "In effect" refers to any calendar year within
19 which development assistance is being provided. For
20 one-time forms of development assistance such as
21 grants, "in effect" refers to a period of not less
22 than five years from the date of assistance.

23 7. "Part-time job" means a job at which a new
24 employee works for a recipient corporation for less
25 than thirty-five hours per week on average.

26 8. "Property-taxing entity" means an entity in
27 this state that levies taxes upon real property,
28 including a city, county, school district, township,
29 and benefited district.

30 9. "Small business" means a corporation whose
31 corporate parents, and all subsidiaries thereof,
32 employed fewer than an average of twenty full-time
33 equivalent employees or which had gross receipts of
34 less than one million dollars in all United States
35 jurisdictions during the calendar year for which
36 disclosure is required.

37 10. "Specific project site" means a distinct
38 operational unit to which any development assistance
39 is applied.

40 11. "Temporary job" means a job at which a new
41 employee is hired for a specific duration of time or
42 season.

43 12. "Value of assistance" means the face value of
44 any and all forms of development assistance.

45 Sec. ____ . NEW SECTION. 16B.4 DISCLOSURE OF STATE
46 TAX EXPENDITURES.

47 1. Effective July 1, 2005, and each succeeding
48 year, the department of revenue shall provide a
49 detailed tax expenditure budget disclosure report to
50 the general assembly, derived from state income tax

H-8254

H-8254

Page 3

1 filings or other relevant state filings for the
2 previous calendar year. The disclosure report shall
3 include, but not be limited to, the following data:

4 a. The dollar amount of tax expenditures made by
5 the state, in the form of uncollected revenues, for
6 each individual tax credit provided by the state,
7 including credits for wages of certain qualified
8 employees, enterprise zones, tax increment financing,
9 grants, matching funds, tax abatements, and tax
10 credits and tax discounts of every kind, including
11 corporate income, personal income, excise, insurance
12 premium, sales and use, job creation, industrial
13 investment, and research and development tax credits
14 and tax discounts.

15 b. For each of the tax expenditures in paragraph
16 "a", except as specified in paragraph "c", an
17 itemization of the name of each individual corporate
18 taxpayer which claimed the credit of any value equal
19 to or greater than fifty thousand dollars, and the
20 specific dollar amount credited to the corporation's
21 tax liability under that credit for that year.

22 c. Credits claimed by individual corporations of
23 less than fifty thousand dollars shall not be itemized
24 as required in paragraph "b". Instead, in reporting
25 credits for each tax expenditure, the department of
26 revenue shall aggregate all claims of less than fifty
27 thousand dollars and report them as a single
28 nonspecified group, with the number of claimants
29 stated.

30 2. All data produced by the department of revenue
31 and received by the general assembly in compliance
32 with this chapter shall be a public record subject to
33 examination and copying under chapter 22,
34 notwithstanding sections 422.20, 422.72, and 423.23,
35 or any other provision of state law to the contrary
36 pertaining to confidentiality of information.

37 Sec. ____ . NEW SECTION. 16B.5 DISCLOSURE OF
38 PROPERTY TAX REDUCTIONS AND ABATEMENTS.

39 1. On or before April 1, 2005, the department of
40 revenue shall prescribe a standardized disclosure form
41 for use by all property-taxing entities. The form
42 shall require, but not be limited to, the following
43 data:

44 a. The name of the property owner.

45 b. The address and description of the property.

46 c. The date upon which any individual property tax
47 reduction or abatement first took effect.

48 d. The date upon which any individual property tax
49 reduction or abatement is scheduled to expire.

50 e. The rate or schedule of each individual

H-8254

H-8254

Page 4

1 property tax reduction or abatement for the period
2 between the date it took effect and the date it is
3 scheduled to expire.

4 f. The entity's aggregate foregone revenue for the
5 calendar year as a result of each property tax
6 reduction or abatement.

7 g. A compilation and summary of the entity's total
8 foregone revenue as a result of all property tax
9 reductions or abatements, including a summary of
10 foregone revenue for each kind of reduction or
11 abatement.

12 h. The respective shares of the entity's property
13 tax revenues for the reported year which were
14 disbursed to each property-taxing entity.

15 2. Effective April 1, 2006, and each subsequent
16 year, every property-taxing entity in this state shall
17 use this standardized form to report to the department
18 of revenue all property tax reductions or abatements
19 which were in effect during the previous fiscal year.

20 3. The department of revenue shall, by June 1,
21 2006, and for each subsequent year, compile and
22 publish all data on all of the disclosure forms in
23 both written and electronic form.

24 4. If a property-taxing entity fails to comply
25 with subsection 2, the department of revenue shall
26 within ten working days of the April 1 filing deadline
27 notify the department of economic development of such
28 failure. Upon receipt of such notice, the department
29 of economic development shall suspend within three
30 working days any current development assistance
31 activities under its control in the property-taxing
32 entity's jurisdiction, and shall be prohibited from
33 proceeding with any current or future development
34 assistance in the noncompliant jurisdiction unless and
35 until the department of economic development receives
36 proof from the department of revenue that the
37 property-taxing entity has complied with subsection 2.

38 5. If any of the state's various agencies fail to
39 enforce subsection 3 or 4, any person who paid
40 personal income taxes or sales and use taxes to the
41 state in the calendar year prior to the year in
42 dispute shall have standing to sue to compel the state
43 to enforce the provisions of this chapter. The court
44 shall award such taxpayer plaintiff who prevails
45 reasonable attorney fees and costs in any such
46 enforcement action.

47 6. All data generated in compliance with
48 subsections 1 and 2 shall be fully subject to
49 examination and copying under chapter 22.

50 Sec. ____ . NEW SECTION. 16B.6 STANDARDIZED

H-8254

H-8254

Page 5

1 APPLICATIONS FOR DEVELOPMENT ASSISTANCE.

2 1. On or before April 1, 2005, the department of
3 economic development shall prescribe a standardized
4 application form for development assistance for use by
5 all granting bodies. The form shall include, but not
6 be limited to, the following data:

7 a. An application tracking number which is
8 specific to both the granting agency and to each
9 application.

10 b. The name, street and mailing addresses,
11 telephone number, and chief officer of the granting
12 body.

13 c. The name, street and mailing addresses,
14 telephone number, and chief officer of the corporate
15 parent of the applicant corporation.

16 d. The name, street and mailing addresses,
17 telephone number, standard industrial classification
18 number, and chief officer of the applicant corporation
19 at the specific project site for which development
20 assistance is sought.

21 e. The applicant corporation's total number of
22 employees at the specific project site on the date of
23 the application, broken down by full-time, part-time,
24 and temporary employees.

25 f. The total number of employees in this state of
26 the applicant corporation's corporate parent, and all
27 subsidiaries thereof, as of December 31 of the year
28 preceding the date of application, broken down by
29 full-time, part-time, and temporary employees.

30 g. The kind or kinds of development assistance and
31 value or values of development assistance being
32 applied for.

33 h. The number of new jobs to be created by the
34 development assistance, broken down by full-time,
35 part-time, and temporary employees.

36 i. The average hourly wage to be paid to the new
37 employees within one year of hiring, broken down by
38 number of full-time, part-time, and temporary
39 employees, and specified by wage groupings as follows:
40 six dollars or less an hour, six dollars and one cent
41 to seven dollars an hour, seven dollars and one cent
42 to eight dollars an hour, eight dollars and one cent
43 to nine dollars an hour, nine dollars and one cent to
44 ten dollars an hour, ten dollars and one cent to
45 eleven dollars an hour, eleven dollars and one cent to
46 twelve dollars an hour, twelve dollars and one cent to
47 thirteen dollars an hour, thirteen dollars and one
48 cent to fourteen dollars an hour, and fourteen dollars
49 and one cent or more per hour.

50 j. For applicant project sites located in a

H-8254

H-8254

Page 6

1 metropolitan statistical area county, as defined by
2 the United States census bureau, the average hourly
3 wage paid nonmanagerial employees in the applicant's
4 industry in this state, as most recently provided by
5 the United States bureau of labor statistics to the
6 standard industrial classification number
7 specification, as available.

8 k. For applicant project sites located outside of
9 metropolitan statistical area counties, the average
10 weekly wage paid in the county, as most recently
11 reported by the United States department of commerce
12 in its county business patterns reports.

13 l. The nature of employer-paid health care
14 coverage to be provided within ninety days of hiring
15 to the employees filling the new jobs, including any
16 costs to be borne by the new employees.

17 m. A list of all other forms of development
18 assistance the applicant corporation is seeking for
19 the specific project site, and the name or names of
20 the granting body or bodies from which that
21 development assistance is being sought.

22 n. A narrative, if necessary, describing how the
23 applicant corporation's use of the development
24 assistance may reduce employment at any site in any
25 United States jurisdiction controlled by the applicant
26 corporation or its corporate parent, including but not
27 limited to events such as automation, consolidation,
28 merger, acquisition, product line movement, business
29 activity movement, or restructuring by either the
30 applicant corporation or its corporate parent.

31 o. Individual certifications by the chief officers
32 of both the applicant corporation and the granting
33 body as to the accuracy of the application, under
34 penalty of perjury.

35 2. Beginning April 1, 2006, every granting body in
36 this state, jointly with applicant corporations, shall
37 complete the standardized application form as
38 prescribed in subsection 1 each time a corporation
39 applies for development assistance.

40 Sec. ____ . NEW SECTION. 16B.7 DEVELOPMENT
41 ASSISTANCE DISCLOSURE.

42 1. Beginning February 1, 2007, and for each
43 subsequent year, every granting body in the state
44 shall submit to the department of economic development
45 copies of all the standardized application forms for
46 development assistance, as specified in section 16B.4,
47 that the granting body has received in the previous
48 calendar year. The granting body shall designate on
49 each form whether the development assistance is
50 pending, was approved, or was not approved, and for

H-8254

H-8254

Page 7

1 those applications that were approved, the date of
2 assistance if the date of assistance occurred in the
3 previous calendar year.

4 2. For those applications that were approved but
5 for which the date of assistance did not occur in the
6 same calendar year, each granting body shall report in
7 its next subsequent February 1 annual report to the
8 department of economic development the relevant dates
9 of assistance.

10 3. For each development assistance application
11 that was approved, and for which the date of

12 assistance has occurred in a reporting year, each
13 granting agency shall submit to the department of
14 economic development a progress report, which shall
15 include, but not be limited to, the following data:

16 a. The recipient corporation's tracking number.

17 b. The name, street and mailing addresses,
18 telephone number, and chief officer of the granting
19 body.

20 c. The name, street and mailing addresses,
21 telephone number, standard industrial classification
22 number, and chief officer of the recipient corporation
23 at the specific project site for which the development
24 assistance was approved.

25 d. The kind of development assistance and value of
26 assistance that was approved.

27 e. The recipient corporation's total level of
28 employment at the specific project site on the date of
29 the application and the recipient corporation's total
30 level of employment at the specific project site on
31 the date of the report, broken down by full-time,
32 part-time, and temporary employees, and a computation
33 of the gain or loss in each category.

34 f. The number of new jobs the recipient
35 corporation stated in its application would be created
36 by the development assistance, broken down by full-
37 time, part-time, and temporary.

38 g. The total level of employment in this state of
39 the recipient corporation's corporate parent, and all
40 subsidiaries thereof, as of December 31 of the year
41 preceding the date of application and the total level
42 of employment in the state of the recipient
43 corporation's corporate parent, and all subsidiaries
44 thereof, as of each December 31 up through the
45 reporting year, broken down by full-time, part-time,
46 and temporary, and a statement of the gain or loss in
47 each category from the earliest reported year to the
48 most recent.

49 h. The average hourly wage paid as of December 31
50 of the reporting year to employees filling the new

H-8254

H-8254

Page 8

1 jobs at the specific project site, broken down by
2 full-time, part-time, and temporary employees.
3 i. The nature of employer-paid health care
4 coverage being provided within ninety days of hiring
5 to the employees filling the new jobs, including any
6 costs being borne by the new employees.
7 j. A statement describing how the recipient
8 corporation's use of the development assistance during
9 the reporting year has reduced employment at any site
10 in any United States jurisdiction controlled by the
11 recipient corporation or its corporate parent,
12 including but not limited to events such as
13 automation, consolidation, merger, acquisition,
14 product line movement, business activity movement, or
15 restructuring by either the recipient corporation or
16 its corporate parent.
17 k. Notarized individual certifications signed by
18 the chief officers of both the recipient corporation
19 and the granting body as to the accuracy of the
20 progress report.
21 4. The granting body and the department of
22 economic development shall have full investigative
23 authority to verify the recipient corporation's
24 progress report data, including but not limited to
25 inspection of the specific project site and analysis
26 of tax and payroll records.
27 5. By June 1, 2007, and by June 1 of each
28 subsequent year, the department of economic
29 development shall compile and publish all data in all
30 of the development assistance progress reports in both
31 written and electronic form.
32 6. Every aspect of all development assistance
33 applications, progress reports, and the department of
34 economic development's compilation of applications and
35 progress reports shall be fully subject to examination
36 and copying under chapter 22.
37 7. If a granting body fails to comply with
38 subsections 1 through 3, or if a granting body or
39 corporation fails to comply with subsection 3,
40 paragraph "k", the department of economic development
41 shall, within ten business days of the February 1
42 filing deadline, suspend any current development
43 assistance activities under its control in the
44 granting body's jurisdiction, and shall be prohibited
45 from proceeding with any current or future development
46 assistance activities under its control in the
47 granting body's jurisdiction, unless and until the
48 department of economic development receives proof that
49 the negligent granting body or corporation has
50 complied with subsections 1 through 3."

H-8254

-8-

H-8254

Page 9

1 2. Title page, line 1, by striking the words
2 "incentives under" and inserting the following: ",
3 including".

4 3. Title page, line 2, by inserting after the
5 words "investment program," the following:
6 "information disclosure,".

7 4. By renumbering as necessary.

By JOCHUM of Dubuque

LENSING of Johnson

WINCKLER of Scott

SHOULTZ of Black Hawk

H-8254 FILED MARCH 16, 2004

WITHDRAWN

SENATE FILE 2290**H-8255**

1 Amend Senate File 2290, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Sec. ____ . Section 15.331A, unnumbered paragraph
6 1, Code Supplement 2003, is amended to read as
7 follows:

8 The eligible business or a supporting business
9 shall be entitled to a refund of the taxes paid under
10 chapters 422 and 423 for gas, electricity, water, or
11 sewer utility services, goods, wares, or merchandise,
12 or on services rendered, furnished, or performed to or
13 for a contractor or subcontractor and used in the
14 fulfillment of a written contract relating to the
15 construction or equipping of a facility within the
16 economic development area of the eligible business or
17 a supporting business. Taxes attributable to
18 intangible property and furniture and furnishings
19 shall not be refunded. However, an eligible business
20 shall be entitled to a refund for taxes attributable
21 to racks, shelving, and conveyor equipment to be used
22 in a warehouse or distribution center subject to
23 section 15.331C."

24 2. Page 1, line 33, by inserting after the word
25 "department." the following: "The taxes paid shall be
26 itemized to allow identification of the taxes
27 attributable to racks, shelving, and conveyor
28 equipment to be used in a warehouse or distribution
29 center."

30 3. Page 1, line 35, by inserting after the word
31 "credit" the following: "certificate".

32 4. Page 1, line 35, by inserting after the words
33 "supporting business" the following: "equal to the
34 taxes paid by a third-party developer under chapters
35 422 and 423 for gas, electricity, water, or sewer
36 utility services, goods, wares, or merchandise, or on
37 services rendered, furnished, or performed to or for a
38 contractor or subcontractor and used in the
39 fulfillment of a written contract relating to the
40 construction or equipping of a facility. The
41 department shall also issue a tax credit certificate
42 to the eligible business or supporting business equal
43 to the taxes paid and attributable to racks, shelving,
44 and conveyor equipment to be used in a warehouse or
45 distribution center. The aggregate combined total
46 amount of tax refunds under section 15.331A for taxes
47 attributable to racks, shelving, and conveyor
48 equipment to be used in a warehouse or distribution
49 center and of tax credit certificates issued by the
50 department each fiscal year for the taxes paid and

H-8255

H-8255

Page 2

- 1 attributable to racks, shelving, and conveyor
2 equipment to be used in a warehouse or distribution
3 center shall not exceed five hundred thousand dollars.
4 If an applicant for a tax credit certificate does not
5 receive a certificate for the taxes paid and
6 attributable to racks, shelving, and conveyor
7 equipment to be used in a warehouse or distribution
8 center, the application shall be considered in
9 succeeding fiscal years".
- 10 5. Page 3, line 22, by striking the word "five",
11 and inserting the following: "ten".
- 12 6. Page 5, line 17, by striking the word "five",
13 and inserting the following: "ten".
- 14 7. By renumbering as necessary.

By HOFFMAN of Crawford
STRUYK of Pottawattamie

H-8255 FILED MARCH 16, 2004
WITHDRAWN

SENATE FILE 2290

H-8257

1 Amend Senate File 2290, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Sec. ____ . Section 15.331A, unnumbered paragraph
6 1, Code Supplement 2003, is amended to read as
7 follows:

8 The eligible business or a supporting business
9 shall be entitled to a refund of the taxes paid under
10 chapters 422 and 423 for gas, electricity, water, or
11 sewer utility services, goods, wares, or merchandise,
12 or on services rendered, furnished, or performed to or
13 for a contractor or subcontractor and used in the
14 fulfillment of a written contract relating to the
15 construction or equipping of a facility within the
16 economic development area of the eligible business or
17 a supporting business. Taxes attributable to
18 intangible property and furniture and furnishings
19 shall not be refunded. However, an eligible business
20 shall be entitled to a refund for taxes attributable
21 to racks, shelving, and conveyor equipment to be used
22 in a warehouse or distribution center subject to
23 section 15.331C."

24 2. Page 1, line 33, by inserting after the word
25 "department." the following: "The taxes paid shall be
26 itemized to allow identification of the taxes
27 attributable to racks, shelving, and conveyor
28 equipment to be used in a warehouse or distribution
29 center."

30 3. Page 1, line 35, by inserting after the word
31 "credit" the following: "certificate".

32 4. Page 1, line 35, by inserting after the words
33 "supporting business" the following: "equal to the
34 taxes paid by a third-party developer under chapters
35 422 and 423 for gas, electricity, water, or sewer
36 utility services, goods, wares, or merchandise, or on
37 services rendered, furnished, or performed to or for a
38 contractor or subcontractor and used in the
39 fulfillment of a written contract relating to the
40 construction or equipping of a facility. The
41 department shall also issue a tax credit certificate
42 to the eligible business or supporting business equal
43 to the taxes paid and attributable to racks, shelving,
44 and conveyor equipment to be used in a warehouse or
45 distribution center. The aggregate combined total
46 amount of tax refunds under section 15.331A for taxes
47 attributable to racks, shelving, and conveyor
48 equipment to be used in a warehouse or distribution
49 center and of tax credit certificates issued by the
50 department for the taxes paid and attributable to

H-8257

H-8257

Page 2

1 racks, shelving, and conveyor equipment to be used in
2 a warehouse or distribution center shall not exceed
3 five hundred thousand dollars in a fiscal year. If an
4 applicant for a tax credit certificate does not
5 receive a certificate for the taxes paid and
6 attributable to racks, shelving, and conveyor
7 equipment to be used in a warehouse or distribution
8 center, the application shall be considered in
9 succeeding fiscal years".

10 5. Page 3, line 22, by striking the word "five",
11 and inserting the following: "ten".

12 6. Page 5, line 17, by striking the word "five",
13 and inserting the following: "ten".

14 7. By renumbering as necessary.

By HOFFMAN of Crawford
STRUYK of Pottawattamie

H-8257 FILED MARCH 16, 2004

ADOPTED

**Fiscal Services Division
Legislative Services Agency
Fiscal Note**

SF 2290 - NJIP and NCIP (LSB 6928 XS)

Analyst: Jeff Robinson (Phone: (515) 281-4614) (jeff.robinson@legis.state.ia.us)

Fiscal Note Version - As Passed by the Senate

Description

Senate File 2290, as passed by the Senate, amends sections of the Code of Iowa relating to the New Jobs and Income Program, the New Capital Investment Program, and the Enterprise Zone Program. The Bill allows lease payments paid to a third-party developer to be considered as an investment when determining eligibility for the New Jobs and Income Program (NJIP) and the New Capital Investment Program (NCIP). The qualified business would also be eligible for a 10.0% income tax credit for the value of the lease payments for ten years. The business would be required to lease the building for at least five years.

The Bill also allows a NJIP and NCIP qualified business to receive a refundable corporate tax credit equal to the value of sales and use taxes paid in construction of the building in an instance where a third-party developer actually paid the sales and use tax. The credit includes the tax paid on racks, shelving, and related equipment installed in a warehouse or distribution center.

Assumptions

1. Beginning calendar year 2004, \$91.0 million per year in third-party construction will occur in Iowa where the lessee of the building qualifies for NJIP or NCIP.
2. An average of 70.0% of the construction costs will be eligible for the corporate tax credit created in this Bill, and the State tax rate including local option taxes will average 6.0%. The cost of racks and shelving is included in the 70.0% assumption.
3. Of the \$91.0 million per year, 75.0% represents traditional NJIP recipients who choose to lease rather than rent due to changes in business patterns, and 25.0% represents companies who have always rented their facilities. Under this assumption, only 25.0% of the assumed \$91.0 million represents a new cost to the State, while 75.0% represents NJIP incentive costs that have been assumed by the State in the past.
4. Of the construction in calendar year 2004, 25.0% of the lease tax credit and 100.0% of the corporate sales tax credit will occur in fiscal year 2005, while the remainder will occur in FY 2006.

Fiscal Impact

The tax credits in Senate File 2290, as passed by the Senate, will reduce General Fund revenues by the following amounts:

- FY 2005 – \$1.0 million
- FY 2006 – \$1.4 million
- FY 2007 – \$1.4 million
- FY 2008 – \$1.6 million
- FY 2009 – \$1.8 million

The tax credit value will continue to increase until a maximum of \$2.6 million is reached in FY 2014.

Sources

Department of Economic Development
Department of Revenue

Dennis C Prouty

March 16, 2004

**HOUSE AMENDMENT TO
SENATE FILE 2290**

S-5108

1 Amend Senate File 2290, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Sec. ____ . Section 15.331A, unnumbered paragraph
6 1, Code Supplement 2003, is amended to read as
7 follows:

8 The eligible business or a supporting business
9 shall be entitled to a refund of the taxes paid under
10 chapters 422 and 423 for gas, electricity, water, or
11 sewer utility services, goods, wares, or merchandise,
12 or on services rendered, furnished, or performed to or
13 for a contractor or subcontractor and used in the
14 fulfillment of a written contract relating to the
15 construction or equipping of a facility within the
16 economic development area of the eligible business or
17 a supporting business. Taxes attributable to
18 intangible property and furniture and furnishings
19 shall not be refunded. However, an eligible business
20 shall be entitled to a refund for taxes attributable
21 to racks, shelving, and conveyor equipment to be used
22 in a warehouse or distribution center subject to
23 section 15.331C."

24 2. Page 1, line 33, by inserting after the word
25 "department." the following: "The taxes paid shall be
26 itemized to allow identification of the taxes
27 attributable to racks, shelving, and conveyor
28 equipment to be used in a warehouse or distribution
29 center."

30 3. Page 1, line 35, by inserting after the word
31 "credit" the following: "certificate".

32 4. Page 1, line 35, by inserting after the words
33 "supporting business" the following: "equal to the
34 taxes paid by a third-party developer under chapters
35 422 and 423 for gas, electricity, water, or sewer
36 utility services, goods, wares, or merchandise, or on
37 services rendered, furnished, or performed to or for a
38 contractor or subcontractor and used in the
39 fulfillment of a written contract relating to the
40 construction or equipping of a facility. The
41 department shall also issue a tax credit certificate
42 to the eligible business or supporting business equal
43 to the taxes paid and attributable to racks, shelving,
44 and conveyor equipment to be used in a warehouse or
45 distribution center. The aggregate combined total
46 amount of tax refunds under section 15.331A for taxes
47 attributable to racks, shelving, and conveyor
48 equipment to be used in a warehouse or distribution
49 center and of tax credit certificates issued by the
50 department for the taxes paid and attributable to

S-5108

S-5108

Page 2

1 racks, shelving, and conveyor equipment to be used in
2 a warehouse or distribution center shall not exceed
3 five hundred thousand dollars in a fiscal year. If an
4 applicant for a tax credit certificate does not
5 receive a certificate for the taxes paid and
6 attributable to racks, shelving, and conveyor
7 equipment to be used in a warehouse or distribution
8 center, the application shall be considered in
9 succeeding fiscal years".

10 5. Page 3, line 22, by striking the word "five",
11 and inserting the following: "ten".

12 6. Page 5, line 17, by striking the word "five",
13 and inserting the following: "ten".

14 7. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-5108 FILED MARCH 16, 2004
CONCURRED

SENATE FILE 2290

AN ACT

RELATING TO ECONOMIC DEVELOPMENT INCENTIVES UNDER THE NEW JOBS AND INCOME PROGRAM, THE NEW CAPITAL INVESTMENT PROGRAM, AND THE ENTERPRISE ZONE PROGRAM AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 15.330, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

If the business or group of businesses has not met more than ninety percent of the job creation requirement in section 15.329, subsection 1, paragraph "f", it shall pay a percentage of the incentive ~~incentives~~ received under ~~section-15-3347~~ or ~~if-the-business-or-group-of-businesses-does-not-receive-the-incentive-under-section-15-3347-then-under-section-15-333~~ as follows:

Sec. 2. Section 15.331A, unnumbered paragraph 1, Code Supplement 2003, is amended to read as follows:

The eligible business or a supporting business shall be entitled to a refund of the taxes paid under chapters 422 and 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility within the economic development area of the eligible business or a supporting business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded. However, an eligible business shall be entitled to a refund for taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center subject to section 15.331C.

Sec. 3. NEW SECTION. 15.331C CORPORATE TAX CREDIT -- FOR CERTAIN SALES TAXES PAID BY DEVELOPER.

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

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

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

Sec. 4. Section 15.333, subsection 1, Code Supplement 2003, is amended to read as follows:

1. An eligible business may claim a corporate tax credit up to a maximum of ten percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business under the program. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. Subject to prior approval by the department of economic development in consultation with the department of revenue, an eligible business whose project primarily involves the production of

value-added agricultural products may elect to receive a refund of all or a portion of an unused tax credit. For purposes of this section, an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return. The refund may be used against a tax liability imposed under chapter 422, division II, III, or V. If the business is a partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust.

1A. For purposes of this section, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means the any of the following:

a. The cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, and the cost of improvements made to real property which is used in the operation of the eligible business.

b. The annual base rent paid to a third-party developer by an eligible business for a period not to exceed ten years, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the eligible business. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of ten years.

Sec. 5. Section 15.333A, subsection 1, Code 2003, is amended to read as follows:

1. An eligible business may claim an insurance premium tax credit up to a maximum of ten percent of the new investment directly related to new jobs created by the location or expansion of an eligible business under the program. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier.

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

For purposes of this section, the purchase price of real property and any buildings and structures located on the real property is considered a new investment in the location or expansion of an eligible business. However, if within five years of purchase, the eligible business sells, disposes of, razes, or otherwise renders unusable all or a part of the land, buildings, or other existing structures for which an insurance premium tax credit was claimed under this section, the insurance premium tax liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

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

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

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

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

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

1A. For purposes of this section, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means any of the following:

a. The cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, and the cost of improvements made to real property which is used in the operation of the eligible business.

b. The annual base rent paid to a third-party developer by an eligible business for a period not to exceed ten years, provided the cumulative cost of the base rent payments for that period does not exceed the cost of the land and the third-party developer's costs to build or renovate the building for the eligible business. The eligible business shall enter into a lease agreement with the third-party developer for a minimum of ten years.

Sec. 6. Section 15.385, Code Supplement 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Corporate tax credit for certain sales taxes paid by a developer, as provided in section 15.331C.

Sec. 7. Section 15.385, subsection 3, paragraph b, Code Supplement 2003, is amended to read as follows:

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

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

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

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

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

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

Sec. 8. Section 15.385, subsection 4, paragraph b, Code Supplement 2003, is amended to read as follows:

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

liability of the eligible business for the year in which all or part of the property is sold, disposed of, razed, or otherwise rendered unusable shall be increased by one of the following amounts:

- (1) One hundred percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within one full year after being placed in service.
- (2) Eighty percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within two full years after being placed in service.
- (3) Sixty percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within three full years after being placed in service.
- (4) Forty percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within four full years after being placed in service.
- (5) Twenty percent of the tax credit claimed under this subsection if the property ceases to be eligible for the tax credit within five full years after being placed in service.

Sec. 9. Section 15E.195, Code 2003, is amended to read as follows:

15E.195 ENTERPRISE ZONE COMMISSION.

1. A county which designates an enterprise zone pursuant to section 15E.194, subsection 1, and in which an eligible enterprise zone is certified shall establish an enterprise zone commission to review applications from qualified businesses located within or requesting to locate within an enterprise zone designated pursuant to section 15E.194, subsection 1, to receive incentives or assistance as provided in section 15E.196. The enterprise zone commission shall also review applications from qualified housing businesses requesting to receive incentives or assistance as provided in section 15E.193B. ~~The enterprise zone commission shall also review applications from qualified development businesses requesting to receive incentives or assistance as provided in section 15E.193C.~~ The commission shall consist of nine

members. Five of these members shall consist of one representative of the board of supervisors, one member with economic development expertise chosen by the department of economic development, one representative of the county zoning board, one member of the local community college board of directors, and one representative of the local workforce development center. These five members shall select the remaining four members. If the enterprise zone consists of an area meeting the requirements for eligibility for an urban or rural enterprise community under Title XIII of the federal Omnibus Budget Reconciliation Act of 1993, one of the remaining four members shall be a representative of that community. A county shall have only one enterprise zone commission to review applications for incentives and assistance for businesses located within or requesting to locate within a certified enterprise zone designated pursuant to section 15E.194, subsection 1.

2. A city with a population of twenty-four thousand or more which designates an enterprise zone pursuant to section 15E.194, subsection 2, and in which an eligible enterprise zone is certified shall establish an enterprise zone commission to review applications from qualified businesses located within or requesting to locate within an enterprise zone to receive incentives or assistance as provided in section 15E.196. The enterprise zone commission shall review applications from qualified housing businesses requesting to receive incentives or assistance as provided in section 15E.193B. ~~The enterprise zone commission shall also review applications from qualified development businesses requesting to receive incentives or assistance as provided in section 15E.193C.~~ The commission shall consist of nine members. Six of these members shall consist of one representative of an international labor organization, one member with economic development expertise chosen by the department of economic development, one representative of the city council, one member of the local community college board of directors, one

member of the city planning and zoning commission, and one representative of the local workforce development center. These six members shall select the remaining three members. If the enterprise zone consists of an area meeting the requirements for eligibility for an urban enterprise community under Title XIII of the federal Omnibus Budget Reconciliation Act of 1993, one of the remaining three members shall be a representative of that community. If a city contiguous to the city designating the enterprise zone is included in an enterprise zone, a representative of the contiguous city, chosen by the city council, shall be a member of the commission. A city in which an eligible enterprise zone is certified shall have only one enterprise zone commission. If a city has established an enterprise zone commission prior to July 1, 1998, the city may petition to the department of economic development to change the structure of the existing commission.

3. The commission may adopt more stringent requirements, including requirements related to compensation and benefits, for a business to be eligible for incentives or assistance than provided in sections 15E.193~~7~~ and 15E.193B~~7~~ and ~~15E.193E~~. The commission may develop as an additional requirement that preference in hiring be given to individuals who live within the enterprise zone. The commission shall work with the local workforce development center to determine the labor availability in the area. The commission shall examine and evaluate building codes and zoning in the enterprise zone and make recommendations to the appropriate governing body in an effort to promote more affordable housing development.

4. If the enterprise zone commission determines that a business qualifies and is eligible to receive incentives or assistance as provided in section 15E.193B~~7~~ ~~15E.193E~~ or 15E.196, the commission shall submit an application for incentives or assistance to the department of economic development. The department may approve, defer, or deny the application.

5. In making its decision, the commission or department shall consider the impact of the eligible business on other businesses in competition with it and compare the compensation package of businesses in competition with the business being considered for incentives or assistance. The commission or department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for incentives or assistance. The commission or department shall also make a good faith effort to determine the probability that the proposed incentives or assistance will displace employees of existing businesses. In determining the impact on businesses in competition with the business seeking incentives or assistance, jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created.

However, if the commission or department finds that an eligible business has a record of violations of the law, including but not limited to environmental and worker safety statutes, rules, and regulations, over a period of time that tends to show a consistent pattern, the eligible business shall not qualify for incentives or assistance under section 15E.193B~~7~~ ~~15E.193E~~ or 15E.196, unless the commission or department finds that the violations did not seriously affect public health or safety or the environment, or if it did that there were mitigating circumstances. In making the findings and determinations regarding violations, mitigating circumstances, and whether an eligible business is eligible for incentives or assistance under section 15E.193B~~7~~ ~~15E.193E~~ or 15E.196, the commission or department shall be exempt from chapter 17A. If requested by the commission or department, the business shall provide copies of materials documenting the type of violation, any fees or penalties assessed, court filings, final disposition of any findings, and any other information which would assist the commission or department in assessing the nature of any violation.

6. A business that is approved to receive incentives or assistance shall, for the length of its designation as an enterprise zone business, certify annually to the county or city, as applicable, and the department of economic development its compliance with the requirements of section 15E.193~~7~~ or 15E.193B~~7~~ ~~or~~ ~~15E.193E~~.

Sec. 10. Section 15E.196, subsection 7, Code Supplement 2003, is amended by striking the subsection.

Sec. 11. Section 15E.193C, Code Supplement 2003, is repealed.

Sec. 12. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

JEFFREY M. LAMBERTI
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2290, Eightieth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2004

THOMAS J. VILSACK
Governor