# Senate File 2290

SENATE FILE ______
BY IVERSON

(COMPANION TO LSB 6928YH
BY GIPP)

Passed Senate, Date ___________ Passed House, Date ______________
Vote: Ayes ______ Nays _______ Vote: Ayes ______ Nays ________
Approved ____________________________

**A BILL FOR**

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:
TLSB 6928XS 80
tm/gg/14

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 15.334, or if the business or group of businesses does not receive the incentive under section 15.334, 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~~,~~ and 15E.193B~~, and 15E.193C~~. 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~~, 15E.193C,~~ 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~~, 15E.193C,~~ 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~~, 15E.193C,~~ 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~~,~~ or 15E.193B~~, or 15E.193C~~.

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.

SF 2290

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