

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 15.106A and 2014 Iowa Acts, House File 2448, the Economic Development Authority hereby gives Notice of Intended Action to adopt new Chapter 48, “Workforce Housing Tax Incentives Program,” and to amend Chapter 59, “Enterprise Zone (EZ) Program,” Chapter 68, “High Quality Jobs Program (HQJP),” Chapter 173, “Standard Definitions,” Chapter 174, “Wage, Benefit, and Investment Requirements,” and Chapter 175, “Application Review and Approval Procedures,” Iowa Administrative Code.

In 2014 Iowa Acts, House File 2448, the General Assembly directed the Authority to implement and administer a new tax incentives program for assisting the development of workforce housing. The rules in proposed Chapter 48 establish a program to provide such assistance and describe the manner in which the Authority intends to implement and administer the program.

The General Assembly also made a number of amendments to the High Quality Jobs Program and the Enterprise Zone Program. The proposed amendments to Chapters 59 and 68 make changes to these programs in conformance with the legislative amendments.

Clarifying amendments are also made to other rules in the chapters affected by the legislative amendments, including some legislative changes from prior sessions.

The Economic Development Authority Board approved these amendments on August 22, 2014, at the Board’s monthly meeting.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 7, 2014. Paper materials with suggestions and comments may be directed to Timothy J. Whipple, Legal Counsel, 200 East Grand Avenue, Des Moines, Iowa 50309. Electronic submissions may be sent to tim.whipple@iowa.gov.

After analysis and review of this rule making, the Authority finds that the amendments to existing business development programs and the new Workforce Housing Tax Incentives Program are likely to substantially benefit the Iowa economy by helping expand access to housing across Iowa and by making the state’s job creation programs more flexible and broadly usable. The Authority’s job creation programs such as the High Quality Jobs Program have resulted in over \$9 billion in capital investment and more than 29,000 jobs since January 2011. The new workforce housing tax credits are now usable in all 99 Iowa counties compared to the enterprise zone housing tax credits, which were accessible in just 45 counties.

These amendments are intended to implement 2014 Iowa Acts, House File 2448.

The following amendments are proposed.

ITEM 1. Adopt the following new 261—Chapter 48:

CHAPTER 48
WORKFORCE HOUSING TAX INCENTIVES PROGRAM

261—48.1(15) Authority. The authority for adopting rules establishing a workforce housing tax incentives program is provided in Iowa Code section 15.106A and in 2014 Iowa Acts, House File 2448, section 18.

261—48.2(15) Purpose. The purpose of the program is to assist the development of workforce housing in Iowa communities by providing incentives for housing projects that are targeted at middle-income households and that focus on the redevelopment or repurposing of existing structures.

261—48.3(15) Definitions. As used in this chapter, unless the context otherwise requires:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Brownfield site*” means an abandoned, idled, or underutilized property where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the site on which the property is located. A brownfield site does not include property which has been placed, or is proposed for placement, on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq. In order to administer similar programs in a similar manner, the authority will attempt to apply this definition in substantially the same way as similar definitions are applied by the brownfield advisory council established in Iowa Code section 15.294 and may consult members of the council or other staff as necessary.

“*Community*” means a city or county.

“*Costs directly related*” means expenditures that are incurred for construction of a housing project to the extent that they are attributable directly to the improvement of the property or its structures. “Costs directly related” includes expenditures for property acquisition, site preparation work, surveying, construction materials, construction labor, architectural services, engineering services, building permits, building inspection fees, and interest accrued on a construction loan during the time period allowed for project completion under an agreement entered into pursuant to the program. “Costs directly related” does not include expenditures for furnishings, appliances, accounting services, legal services, loan origination and other financing costs, syndication fees and related costs, developer fees, or the costs associated with selling or renting the dwelling units whether incurred before or after completion of the housing project.

“*Grayfield site*” means a property meeting all of the following requirements:

(1) The property has been developed and has infrastructure in place but the property’s current use is outdated or prevents a better or more efficient use of the property. Such property includes vacant, blighted, obsolete, or otherwise underutilized property.

(2) The property’s improvements and infrastructure are at least 25 years old and one or more of the following conditions exists:

1. Thirty percent or more of a building located on the property that is available for occupancy has been vacant or unoccupied for a period of 12 months or more.

2. The assessed value of the improvements on the property has decreased by 25 percent or more.

3. The property is currently being used as a parking lot.

4. The improvements on the property no longer exist.

In administering the program, the authority will attempt to apply this definition in substantially the same manner as similar definitions are applied by the brownfield advisory council established in Iowa Code section 15.294.

“*Greenfield site*” means a site that does not meet the definition of a brownfield site or grayfield site. A project proposed at a site located on previously undeveloped or agricultural land shall be presumed to be a greenfield site.

“*Housing business*” means a business that is a housing developer, housing contractor, or nonprofit organization that completes a housing project in the state.

“*Housing project*” means a project located in this state meeting the requirements of rule 261—48.4(15).

“*Laborshed area*” means the same as defined in 261—Chapter 173.

“*Laborshed wage*” means the same as defined in 261—Chapter 173.

“*Multi-use building*” means a building whose street-level ground story is used for a purpose that is other than residential, and whose upper story or stories are currently used primarily for a residential purpose, or will be used primarily for a residential purpose after completion of the housing project associated with the building.

“*New dwelling units*” means dwelling units that are made available for occupancy in a community as a result of a housing project and that were not available for occupancy as residential housing in the community for a period of at least six months prior to the date on which application is made to the authority under the program. If a dwelling unit has served as residential housing and been occupied during the six months preceding the date on which application is made to the authority under the program, then the dwelling unit shall be presumed not to be a new dwelling unit.

“*Program*” means the workforce housing tax incentives program administered under this chapter.

“*Qualifying new investment*” means costs that are directly related to the acquisition, repair, rehabilitation, or redevelopment of a housing project in this state. For purposes of this rule, “costs directly related to acquisition” includes the costs associated with the purchase of real property or other structures.

(1) “Qualifying new investment” includes costs that are directly related to new construction of dwelling units if the new construction occurs in a distressed workforce housing community.

(2) The amount of costs that may be used to compute “qualifying new investment” shall not exceed the costs used for the first \$150,000 of value for each dwelling unit that is part of a housing project.

(3) “Qualifying new investment” does not include the following:

1. The portion of the total cost of a housing project that is financed by federal, state, or local government tax credits, grants, forgivable loans, or other forms of financial assistance that do not require repayment, excluding the tax incentives provided under this program.

2. If a housing project includes the rehabilitation, repair, or redevelopment of an existing multi-use building, the portion of the total acquisition costs of the multi-use building, including a proportionate share of the total acquisition costs of the land upon which the multi-use building is situated, that are attributable to the street-level ground story that is used for a purpose that is other than residential.

3. Any costs, including acquisition costs, incurred before the housing project is approved by the authority.

“*Rehabilitation, repair, or redevelopment*” means construction or development activities associated with a housing project that are undertaken for the purpose of reusing or repurposing existing buildings or structures as new dwelling units. Rehabilitation, repair, or redevelopment does not include new construction of dwelling units at a greenfield site. Rehabilitation, repair, or redevelopment includes new structures at a qualified grayfield site.

261—48.4(15) Housing project requirements.

48.4(1) *Minimum requirements.* To receive workforce housing tax incentives pursuant to the program, a proposed housing project shall meet all of the following requirements:

a. The project includes at least one of the following:

(1) Four or more single-family dwelling units.

(2) One or more multiple dwelling unit buildings each containing three or more individual dwelling units.

(3) Two or more dwelling units located in the upper story of an existing multi-use building.

b. The project consists of any of the following:

(1) Rehabilitation, repair, or redevelopment at a brownfield site or grayfield site that results in new dwelling units.

(2) The rehabilitation, repair, or redevelopment of dilapidated dwelling units.

(3) The rehabilitation, repair, or redevelopment of dwelling units located in the upper story of an existing multi-use building.

(4) The new construction, rehabilitation, repair, or redevelopment of dwelling units in a distressed workforce housing community. The authority will determine whether a community is considered a distressed workforce housing community pursuant to subrule 48.4(2).

c. (1) Except as provided in subparagraph (2) below, the average dwelling unit cost does not exceed \$200,000 per dwelling unit. For purposes of this rule, the average dwelling unit cost equals the costs directly related to the housing project divided by the total number of dwelling units in the housing project.

(2) The average dwelling unit cost does not exceed \$250,000 per dwelling unit if the project involves the rehabilitation, repair, redevelopment, or preservation of eligible property, as that term is defined in Iowa Code section 404A.1(2).

d. The dwelling units, when completed and made available for occupancy, meet the U.S. Department of Housing and Urban Development's housing quality standards and all applicable local safety standards.

48.4(2) Distressed workforce housing community designations.

a. The determination as to whether a community is considered a distressed workforce housing community is within the discretion of the authority. The authority will consider applications from communities on an annual basis for designation as a distressed workforce housing community for purposes of this subrule. A community must apply for and receive such a designation before the authority will approve any housing project application seeking to establish eligibility under subparagraph 48.4(1) "b"(4). The authority will make a determination on the distressed workforce housing status of a community after considering all of the following factors:

(1) Whether or not the community has a severe housing shortage relative to demand, low vacancy rates, or rising housing costs combined with low unemployment as described in paragraph 48.4(2) "b."

(2) The relative merits of all applications for designation as a distressed workforce housing community. The relative merits will be assessed according to the process and criteria described in paragraph 48.4(2) "b."

(3) The demand for projects applying under this subrule compared to the demand for projects applying as rehabilitation, repair, or redevelopment projects. Each fiscal year, the authority will initially allocate 30 percent of the tax incentives available under the program exclusively for purposes of new construction in distressed workforce housing communities. If applications for such projects do not utilize the allocated amount, on or before April 1 of each fiscal year, the authority will reallocate the remaining unused amount to other housing projects.

b. In considering the factors described in paragraph 48.4(2) "a," the authority will attempt to quantify the extent of housing distress in a community by evaluating and scoring each application from 1 to 100 according to the following criteria:

(1) The results of a housing needs assessment submitted to the authority and the extent to which the assessment indicates a distressed housing market in the community: 10 points.

The housing needs assessment shall be prepared by a third party and shall have been prepared no more than three years prior to the date on which a housing project application is submitted to the authority. Such an assessment shall address whether or not the community has a severe housing shortage relative to demand, low vacancy rates, or rising housing costs combined with low unemployment.

(2) The annual number of building permits issued in the community for the most recent three-year period and the extent to which a low volume of permits indicates that the local housing market is in need of additional incentives to increase development: 10 points.

For purposes of this criterion, the authority will consider a low annual permit volume to be either 100 permits or less or a number of issued permits that is 1 percent or less of the community's currently available housing stock.

(3) The homeowner vacancy rate in the community and the extent to which the rate indicates that additional incentives are needed to increase the available housing stock: 10 points.

For purposes of this criterion, the authority will consider a vacancy rate of 1 percent to be low and a vacancy rate of 2 percent to be a typically acceptable rate on a national basis.

(4) The annual volume of homeowner unit sales in the community for the most recent three-year period and the extent to which a low volume indicates a shortage of available housing: 10 points.

For purposes of this criterion, the authority will consider information indicating that the volume of sales in a community is materially lower than the volume of sales in substantially similar communities elsewhere in the state or nation.

(5) The annual average length of time it takes to sell homeowner units in the community for the most recent three-year period and the extent to which the average length of time indicates high demand for housing in the community: 10 points.

For purposes of this criterion, the authority will consider an average time of 90 days or less to indicate a high demand for available housing.

(6) The annual average rental vacancy rate in the community and the extent to which a low vacancy rate indicates high demand for housing in the community: 10 points.

For purposes of this criterion, the authority will consider a rental vacancy rate of 5 percent or less to be a low vacancy rate.

(7) The annual average length of time it takes to lease rental units in the community for the most recent three-year period and the extent to which the average length of time indicates high demand for rental housing in the community: 10 points.

For purposes of this criterion, the authority will consider an average time of 30 days or less to indicate a high demand for available housing.

(8) The average housing costs in the community and the extent to which those costs are considered affordable: 10 points.

For purposes of this criterion, the authority will only consider data from an industry standard housing affordability index.

(9) The average unemployment rate for the community and the extent to which a low unemployment rate contributes to increased demand for housing in the community: 10 points.

For purposes of this criterion, the authority will consider unemployment data from both the community and the applicable laborshed area.

(10) The laborshed wage applicable to the community and the extent to which low relative wages negatively impact the affordability of housing in the community: 10 points.

For purposes of this criterion, the authority will use laborshed wages as calculated by the Iowa department of workforce development for purposes of the high quality jobs program.

48.4(3) *Minimum score required for distressed community designations.* To be designated as a distressed workforce housing community under subrule 48.4(2), a community must receive a score of 70 points or more.

261—48.5(15) Housing project application and agreement.

48.5(1) Application.

a. A housing business seeking workforce housing tax incentives provided in rule 261—48.6(15) shall make application to the authority in the manner prescribed in this rule. The authority will accept applications on a continuous basis and will review applications in the order received. The authority will acknowledge receipt of the application and notify the applicant within 30 days as to whether the project will be registered pursuant to this rule.

b. The application required in paragraph 48.5(1) “*a*” shall include all of the following:

(1) The following information establishing local participation for the housing project:

1. A resolution in support of the housing project by the community where the housing project will be located.

2. Documentation of local matching funds pledged for the housing project in an amount equal to at least \$1,000 per dwelling unit, including but not limited to a funding agreement between the housing business and the community where the housing project will be located. For purposes of this paragraph, local matching funds shall be in the form of cash or cash equivalents or in the form of a local property tax exemption, rebate, refund, or reimbursement.

(2) A report that meets the requirements and conditions of Iowa Code section 15.330(9).

(3) Information showing the total costs and funding sources of the housing project sufficient to allow the authority to adequately determine the financing that will be utilized for the housing project, the actual cost of the dwelling units, and the amount of qualifying new investment.

(4) Any other information deemed necessary by the authority to evaluate the eligibility and financial need of the housing project under the program.

48.5(2) Registration.

a. Upon review of the application, the authority may register the housing project under the program. If the authority registers the housing project, the authority shall make a preliminary determination as to the amount of tax incentives for which the housing project qualifies.

b. After registering the housing project, the authority shall notify the housing business of successful registration under the program. The notification shall include the amount of tax incentives under rule 261—48.6(15) for which the housing business has received preliminary approval and a statement that the amount is a preliminary determination only. The amount of tax credits included on a tax credit certificate issued pursuant to this chapter, or a claim for refund of sales and use taxes, shall be contingent upon completion of the requirements in subrule 48.5(3).

48.5(3) Agreement and fees.

a. Upon successful registration of the housing project, the housing business shall enter into an agreement with the authority for the successful completion of all requirements of the program.

b. The compliance cost fees imposed in Iowa Code section 15.330(12) shall apply to all agreements entered into under this program and shall be collected by the authority in the same manner and to the same extent as described in that provision.

c. A housing business shall complete its housing project within three years from the date the housing project is registered by the authority.

d. Upon completion of a housing project, an examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements, completed by a certified public accountant authorized to practice in this state, shall be submitted to the authority.

e. Upon review of the examination and verification of the amount of the qualifying new investment, the authority may issue a tax credit certificate to the housing business stating the amount of workforce housing investment tax credits under rule 261—48.6(15) that the eligible housing business may claim.

48.5(4) Maximum incentives amount.

a. The maximum aggregate amount of tax incentives that may be awarded under rule 261—48.6(15) to a housing business for a housing project shall not exceed \$1 million.

b. If a housing business qualifies for a higher amount of tax incentives under rule 261—48.6(15) than is allowed by the limitation imposed in paragraph 48.5(4) "a," the authority and the housing business may negotiate an apportionment of the reduction in tax incentives between the sales tax refund provided in subrule 48.6(2) and the workforce housing investment tax credits provided in subrule 48.6(3) provided the total aggregate amount of tax incentives after the apportioned reduction does not exceed the amount in paragraph 48.5(4) "a."

c. The authority shall issue tax incentives under the program on a first-come, first-served basis until the maximum amount of tax incentives allocated pursuant to Iowa Code section 15.119(2) is reached. The authority shall maintain a list of registered housing projects under the program so that if the maximum aggregate amount of tax incentives is reached in a given fiscal year, registered housing projects that were completed but for which tax incentives were not issued shall be placed on a wait list in the order the registered housing projects were registered and shall be given priority for receiving tax incentives in succeeding fiscal years.

48.5(5) Termination and repayment. The failure by a housing business in completing a housing project to comply with any requirement of this program or any of the terms and obligations of an agreement entered into pursuant to this rule may result in the reduction, termination, or rescission of the approved tax incentives and may subject the housing business to the repayment or recapture of tax

incentives claimed under rule 261—48.6(15). The repayment or recapture of tax incentives pursuant to this rule shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

261—48.6(15) Workforce housing tax incentives.

48.6(1) Eligibility. A housing business that has entered into an agreement pursuant to rule 261—48.5(15) is eligible to receive the tax incentives described in subrules 48.6(2) and 48.6(3).

48.6(2) Sales tax refunds. A housing business may claim a refund of the sales and use taxes paid under Iowa Code chapter 423 that are directly related to a housing project. The refund available pursuant to this subrule shall be as provided in Iowa Code section 15.331A to the extent applicable for purposes of this program.

48.6(3) Income tax credits.

a. A housing business may claim a tax credit in an amount not to exceed 10 percent of the qualifying new investment of a housing project.

b. The tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

c. An individual may claim a tax credit under this subrule of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

d. Any tax credit in excess of the taxpayer's liability for the tax year is not refundable but may be credited to the tax liability for the following five years or until depleted, whichever is earlier.

e. (1) To claim a tax credit under this subrule, a taxpayer shall include one or more tax credit certificates with the taxpayer's tax return.

(2) The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the credit, the name of the eligible housing business, any other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

(3) The tax credit certificate, unless rescinded by the authority, shall be accepted by the department of revenue as payment for taxes imposed pursuant to Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and for the moneys and credits tax imposed in Iowa Code section 533.329, subject to any conditions or restrictions placed by the authority upon the face of the tax credit certificate and subject to the limitations of this program.

(4) Tax credit certificates issued under an agreement entered into pursuant to subrule 48.5(3) may be transferred to any person. Within 90 days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue. However, tax credit certificate amounts of less than \$1,000 shall not be transferable.

(5) Within 30 days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared on the transferred tax credit certificate.

(6) A tax credit shall not be claimed by a transferee under this rule until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in Iowa Code chapter 422, divisions II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under Iowa Code chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under Iowa Code chapter 422, divisions II, III, and V.

f. For purposes of the individual and corporate income taxes and the franchise tax, the increase in the basis of the property that would otherwise result from the qualifying new investment shall be reduced by the amount of the tax credit computed under this subrule.

261—48.7(15) Annual program funding allocation, reallocation, and management of excess demand.

48.7(1) Each year the authority will allocate to the program a portion of the maximum aggregate tax credit cap described in Iowa Code section 15.119. For each fiscal year beginning on or after July 1, 2014, the authority will allocate not more than \$20 million for purposes of the program.

48.7(2) If, during a fiscal year, the authority determines that program demand is less than the amount initially allocated, the authority may reallocate unused amounts to other programs under Iowa Code section 15.119.

48.7(3) If, in any fiscal year, the authority determines that demand for the tax incentives is more than the amount allocated to the program pursuant to Iowa Code section 15.119, the authority will keep a waiting list of projects registered pursuant to rule 261—48.5(15) and will only enter into new agreements under the program as additional program funding becomes available. The authority will enter into agreements with registered projects on a first-come, first-served basis as determined by the order in which the projects were registered. A project successfully registered under the program will be considered to have priority as against other subsequently registered projects. However, registration under the program shall not obligate or otherwise bind the authority, or any other agency of the state, to execute a contract or issue tax incentives to an applicant under the program.

261—48.8(15) Application submittal and review process.

48.8(1) The authority will develop a standardized application and make the application available to eligible housing businesses and to communities. To apply for assistance under the program, an interested person shall submit an application to the authority. Applications must be submitted online at www.iowagrants.gov. Instructions for application submission may be obtained at www.iowagrants.gov or by contacting the Community Development Division, Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309.

48.8(2) The authority has final decision-making authority on requests for financial assistance for this program. Applications will be reviewed and scored by the staff of the authority. The director or the director's designee will make final funding decisions after considering the recommendations of staff. The director may approve, defer or deny an application.

These rules are intended to implement 2014 Iowa Acts, House File 2448.

ITEM 2. Adopt the following **new** rule 261—59.15(15E):

261—59.15(15E) Applicability on or after July 1, 2014.

59.15(1) Effective as of July 1, 2014, the enterprise zone program was repealed by 2014 Iowa Acts, House File 2448. No agreements shall be entered into under the program on or after July 1, 2014.

59.15(2) To the extent allowed by other provisions of law, the rules adopted in this chapter shall continue to apply to agreements entered into on or before June 30, 2014.

59.15(3) On or after July 1, 2014, a city or county shall not create an enterprise zone under Iowa Code chapter 15E, division XVIII, or enter into a new agreement or amend an existing agreement under Iowa Code chapter 15E, division XVIII.

59.15(4) The authority and an eligible business may amend an agreement entered into prior to July 1, 2014, in order to avoid hardship to an eligible business in the performance or maintenance of the agreement but only to the extent that amending the agreement would not require amendment by a city or county. The determination as to whether a hardship exists shall be within the discretion of the authority. The authority shall not amend an agreement in any manner that would increase the amount of tax incentives provided under the agreement.

ITEM 3. Amend subrule 68.1(2) as follows:

68.1(2) Definitions. In addition to the standard definitions located in 261—Chapter 173, the following definitions apply to the HQJP:

“*Annual base rent*” means the business’s annual lease payment minus taxes, insurance and operating or maintenance expenses.

“*Biotechnology related processes*” means the use of cellular and biomolecular processes to solve problems or make products. For purposes of this definition, farming activities shall not be included.

“*Brownfield site*” means the same as defined in Iowa Code section 15.291.

“*Community*” means a city, county, or other entity established pursuant to Iowa Code chapter 28E.

“*Contractor or subcontractor*” means a person who contracts with the eligible business or subcontracts with a contractor for the provision of property, materials, or services for the construction or equipping of a facility of the eligible business.

“*Economically distressed area*” means a county meeting the requirements of a distressed area pursuant to rule 261—174.6(15).

“*Eligible business*” means a business meeting the conditions of Iowa Code section 15.329.

“*Grayfield site*” means the same as defined in Iowa Code section 15.291.

“*Greenfield site*” means a site that does not meet the definition of a brownfield site or grayfield site.

A project proposed at a site located on previously undeveloped or agricultural land shall be presumed to be a greenfield site.

“*High quality jobs*” means created or retained jobs that meet the wage requirements established in subrule 68.2(4) and subrules 68.2(7) and 68.2(8) when applicable.

“*Program*” means the high quality jobs program created pursuant to Iowa Code chapter 15, part 13.

~~“*Project*” means the activity, or set of activities, proposed in the application by the business which will result in accomplishing the goals of the program and for which the business is requesting tax incentives and assistance. A project shall include the start-up, location, expansion, or modernization of a business same as defined in rule 261—173.2(15).~~

~~“*Project completion assistance*” means financial assistance or technical assistance provided to an eligible business in order to facilitate the start-up, location, modernization, or expansion of the business in this state and provided in an expedient manner to ensure the successful completion of the start-up, location, modernization, or expansion project the same as defined in rule 261—173.2(15).~~

“*Retail business*” means any business engaged in the business of selling tangible personal property or taxable services at retail in this state. Retail business includes a business obligated to collect sales or use tax under Iowa Code chapter 423.

ITEM 4. Amend subrule 68.2(1) as follows:

68.2(1) Community approval. If the qualifying investment is \$10 million or more, the community in which the business’s project is or will be located shall approve by ordinance or resolution the ~~start-up, location, expansion, or modernization of the business project~~ for purposes of receiving tax incentives and assistance under this program.

ITEM 5. Amend paragraph **68.2(4)“d”** as follows:

d. Notwithstanding paragraphs “b” and “c” of this subrule, a business located at a brownfield site or grayfield site or in an economically distressed area shall demonstrate that the jobs may be awarded incentives for jobs that will pay at least 100 percent of the qualifying wage threshold throughout the applicable contract period less than 120 percent of the qualifying wage threshold if the conditions described in rule 261—174.6(15) apply.

ITEM 6. Amend paragraph **68.4(1)“b”** as follows:

b. *Racks, shelving, and conveyor equipment.* If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may be entitled to a refund of sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department of revenue for a refund. The application must include the refund amount being requested

and documentation such as invoices or contracts which substantiate the requested amount. The department of revenue will validate the refund amount and issue the refund.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment issued by the department of revenue to businesses approved for high quality jobs program and enterprise zone program benefits shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business's application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the approved business's application shall be considered in the succeeding fiscal year. An approved business that receives a refund or a tax credit in one fiscal year shall not be considered in a succeeding fiscal year. No business shall receive more than \$500,000 in refunds or credits pursuant to this paragraph.

ITEM 7. Amend paragraph **68.4(2)“b”** as follows:

b. Racks, shelving, and conveyor equipment. If the project is the location, expansion, or modernization of a warehouse or distribution center, the approved business may claim a corporate tax credit up to the amount of sales and use taxes paid by a third-party developer and attributable to racks, shelving, and conveyor equipment. The approved business shall, not more than 12 months following project completion, make written application to the department of revenue for a tax credit. The application must include the tax credit amount being requested and documentation from the third-party developer such as invoices or contracts which substantiate the requested amount. The department of revenue will confirm the tax credit amount and issue a tax credit certificate in an amount equal to all or a portion of the sales and use taxes attributable to racks, shelving, and conveyor equipment. The approved business shall not claim the tax credit provided in this subrule unless a tax credit certificate is attached to the approved business's tax return for the tax year in which the tax credit is claimed. A tax credit certificate shall contain the approved business's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue. Any tax 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 approved business may elect to receive a refund of all or a portion of an unused tax credit.

The aggregate combined total amount of refunds and tax credits attributable to sales and use taxes on racks, shelving, and conveyor equipment approved by the authority for businesses under the high quality jobs program and enterprise zone program shall not exceed \$500,000 during a fiscal year. Tax refunds and tax credits will be issued on a first-come, first-served basis. If an approved business's application does not receive a refund or tax credits due to the \$500,000 fiscal year limitation, the approved business's application shall be considered in the succeeding fiscal year. An approved business that receives a refund or a tax credit in one fiscal year shall not be considered in a succeeding fiscal year. No business shall receive more than \$500,000 in refunds or credits pursuant to this paragraph.

ITEM 8. Amend subrule 68.4(3) as follows:

68.4(3) Value-added property tax exemption. Pursuant to Iowa Code section 15.332, the community may exempt from taxation all or a portion of the actual value added by improvements to real property directly related to jobs created or retained by the ~~location or expansion of the approved business project~~ and used in the operations of the approved business. The exemption may be allowed for a period not to exceed 20 years beginning the year the improvements are first assessed for taxation. For purposes of this subrule, improvements include new construction and rehabilitation of and additions to existing structures. The exemption shall apply to all taxing districts in which the real property is located. The community shall provide the authority and the local assessor with a copy of the resolution adopted by its governing body which indicates the estimated value and duration of the authorized exemption.

ITEM 9. Amend paragraph **68.4(4)“a,”** introductory paragraph, as follows:

a. Claiming the investment tax credit. Pursuant to Iowa Code section 15.333, the approved business may claim an investment tax credit equal to a percentage of the new investment directly related to jobs created or retained by the ~~start-up, location, expansion, or modernization of the approved business under the program project~~. The tax credit shall be earned when the qualifying asset is placed in service.

ITEM 10. Amend paragraph **68.4(4)“b,”** introductory paragraph, as follows:

b. Investment qualifying for the tax credit. For purposes of this subrule, new investment directly related to jobs created or retained by the ~~start-up, location, expansion or modernization of the approved business under the program~~ project means all of the following:

ITEM 11. Amend subrule 68.4(5) as follows:

68.4(5) Insurance premium tax credit. Pursuant to Iowa Code section 15.333A, the approved business may claim an insurance premium tax credit equal to a percentage of the new investment directly related to jobs created or retained by the ~~start-up, location, expansion, or modernization of the approved business under the program~~ project.

a. Claiming the tax credit. The tax credit shall be earned when the qualifying asset is placed in service. The tax credit shall be amortized equally over a five-year period which the authority will, in consultation with the eligible business, define. The five-year amortization period shall be specified in a contract entered into with the authority. The tax credit shall be allowed against taxes imposed under Iowa Code chapter 432. A tax 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 first.

b. Investment qualifying for the tax credit. For purposes of this subrule, new investment directly related to jobs created or retained by the ~~start-up, location, expansion or modernization of the approved business under the program~~ project means all of the following:

(1) to (4) No change.

The approved business shall not claim a tax credit above the amount defined in the final award documentation or the amount specified in a contract entered into with the authority.

ITEM 12. Amend subrule 173.1(1) as follows:

173.1(1) Current programs. Effective July 1, ~~2012~~ 2014, this chapter shall apply to the following programs and funding sources:

a. EDSA (economic development set-aside) program (261—Chapter 23).

b. EZ (enterprise zone) program (261—Chapter 59). Effective as of July 1, 2014, the EZ program was repealed. See 2014 Iowa Acts, House File 2448. The rules adopted in 261—Chapter 59 continue to apply to agreements entered into prior to that date. All amendments to this chapter made on or after July 1, 2014, shall not apply to agreements entered into under the EZ program prior to that date.

c. HQJP (high quality jobs program) (261—Chapter 68).

ITEM 13. Adopt the following **new** definitions in rule ~~261—173.2(15)~~:

“*Brownfield site*” means the same as defined in Iowa Code section 15.291.

“*Grayfield site*” means the same as defined in Iowa Code section 15.291.

“*Greenfield site*” means a site that does not meet the definition of a brownfield site or grayfield site. A project proposed at a site located on previously undeveloped or agricultural land shall be presumed to be a greenfield site.

“*Project*” means an activity or set of activities directly related to the start-up, location, modernization, or expansion of a business, and proposed in an application by a business, that will result in the accomplishment of the goals of the program.

ITEM 14. Amend rule 261—174.6(15) as follows:

261—174.6(15) Qualifying wage threshold requirements—effective on or after July 1, 2012 ~~2014~~. ~~2012~~ 2014 Iowa Acts, House File 2473 ~~2448~~, (“the Act”) became effective on July 1, ~~2012~~ 2014. Among other things, the Act changed the qualifying wage thresholds applicable to HQJP and repealed the EZ program. As of July 1, 2012 2014, the qualifying wage thresholds described in this rule shall be in effect.

174.6(1) Enterprise zone (EZ) program. The qualifying wage threshold requirement applicable to the EZ program is 90 percent of the laborshed wage. The wage threshold described in this subrule continues to apply to agreements entered into before July 1, 2014. However, no new agreements may be entered into on or after July 1, 2014.

174.6(2) High quality jobs program (HQJP). The qualifying wage threshold requirement applicable to HQJP is 120 percent of the laborshed wage unless subrule 174.6(3) or 174.6(4) applies to a project.

174.6(3) HQJP projects in distressed areas.

a. Notwithstanding subrule 174.6(2), the qualifying wage threshold requirement applicable to an HQJP project may be lowered to 100 percent of the laborshed wage if the eligible business is located in an economically distressed area.

b. For purposes of this subrule, “economically distressed area” means a county that ranks among the bottom ~~25~~ 33 of all Iowa counties, as measured by either the average monthly unemployment level for the most recent 12-month period or the average annualized unemployment level for the most recent five-year period.

c. The authority will update the list of economically distressed areas according to the same schedule as the qualifying wage thresholds are updated pursuant to subrule 174.2(1) and will apply the provisions of subrule 174.2(2) to the list of economically distressed areas in the same manner.

174.6(4) HQJP projects at brownfield or grayfield sites.

a. Notwithstanding subrule 174.6(2), the qualifying wage threshold requirement applicable to an HQJP project may be lowered to 90 percent of the laborshed wage if the eligible business is located at a brownfield site. The qualifying wage threshold for a brownfield site may be lowered to 90 percent regardless of where the project site is located as long as the project meets the requirements of a brownfield site.

b. Notwithstanding subrule 174.6(2), the qualifying wage threshold requirement applicable to an HQJP project may be lowered to 100 percent of the laborshed wage if the eligible business is located at a grayfield site. The qualifying wage threshold for a grayfield site may be lowered to 100 percent regardless of where the project site is located as long as the project meets the requirements of a grayfield site.

c. The authority may consult with the brownfield redevelopment advisory council established pursuant to Iowa Code section 15.294 in order to make a determination as to whether a project site meets the requirements of a brownfield site or grayfield site for purposes of this subrule. The determination as to whether a project site qualifies as a brownfield or grayfield site shall be within the discretion of the authority. In making such determinations, the authority will attempt to apply the same definition in substantially the same manner as similar definitions are applied by the brownfield redevelopment advisory council.

d. A project that does not meet the requirements of a brownfield site or grayfield site will be presumed to be a greenfield site.

~~174.6(4)~~ 174.6(5) Economic development set aside (EDSA) program. The qualifying wage threshold requirement applicable to the EDSA program is 90 percent of the laborshed wage.

ITEM 15. Amend paragraph **175.4(4)“b”** as follows:

b. *Key to table.*

ACE – The accelerated career education program job credits authorized under Iowa Code chapter 260G.

ASSISTIVE – The assistive device tax credits authorized in Iowa Code section 422.33.

BRN – The brownfield redevelopment advisory council established in Iowa Code section 15.294.

BROWN – Redevelopment tax credits for brownfield and grayfield sites and the brownfield redevelopment fund as established in Iowa Code chapter 15.

CDBG – Federal community development block grant funded programs.

DDC – Due diligence committee organized by the board pursuant to 261—Chapter 1.

EDSA – The economic development set aside component of the CDBG program established in 261—Chapter 23.

ETAP – The export trade assistance program established in 261—Chapter 72.

EZ – Enterprise zone program as established in Iowa Code chapter 15E, including both the business and housing development tax credits.

HQJP – High quality jobs program as established in Iowa Code chapter 15, including both tax incentives and project completion assistance.

INNOVATION – Programs related to innovation, commercialization, and targeted industries development, including the programs described in Iowa Code section 15.411 and the program rules in 261—Part V.

NSP – Neighborhood stabilization program as established in 261—Chapter 27.

TCC – Technology commercialization committee organized by the board pursuant to 261—Chapter 1.

TJWTC – Targeted jobs withholding tax credit program for pilot project cities established in Iowa Code section 403.19A.

~~TSB—Targeted small business advisory council established in Iowa Code section 15.247(8).~~

~~TSB LOAN—The targeted small business financial assistance program established in Iowa Code section 15.247.~~

WORKFORCE – Workforce housing tax incentives program established pursuant to Iowa Code section 15.351 et seq., as enacted by 2014 Iowa Acts, House File 2448.

ITEM 16. Amend paragraph **175.4(4)“c”** as follows:

c. Recommendation and approval entities for state and federal programs. The application approval process for applications for tax incentives, project completion assistance, other financial assistance, or other benefits under the authority’s various programs is as follows:

PROGRAM	STATE/FEDERAL	RECOMMENDATION BY	FINAL DECISION BY
HQJP	State	DDC	Board
EZ (Business)	State	DDC	Board
EZ (Housing)	State		Director
INNOVATION	State	TCC	Board
ASSISTIVE	State		Director
EDSA	Federal	DDC	Board
CDBG	Federal		Director
NSP	Federal		Director
BROWN	State	BRN	Director
TSB LOAN	State	TSB	Director
ETAP	State		Director
ACE	State		Director
TJWTC	State	DDC	Director Board
<u>WORKFORCE</u>	<u>State</u>		<u>Director</u>

ITEM 17. Amend paragraph **175.5(1)“c”** as follows:

c. For projects seeking both direct assistance and tax incentives, the amount of local match will be based on the amount required for ~~the direct~~ each form of assistance.