

JAN 26 2001

ECONOMIC DEVELOPMENT

HOUSE FILE

119

BY HOVERSTEN

**WITHDRAWN**  
1-15-02

Passed House, Date \_\_\_\_\_

Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the enterprise zone program by creating an  
2 eligible development business portion of the program, amending  
3 the incentives and assistance provisions available under the  
4 enterprise zone program, and providing a retroactive  
5 applicability date.

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

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HS 119

1 Section 1. Section 15.333, subsection 1, Code 2001, is  
2 amended to read as follows:

3 1. An eligible business may claim a corporate tax credit  
4 up to a maximum of ten percent of the new investment which is  
5 directly related to new jobs created by the location or  
6 expansion of an eligible business under the program. Any  
7 credit in excess of the tax liability for the tax year may be  
8 credited to the tax liability for the following seven years or  
9 until depleted, whichever occurs earlier. If the business is  
10 a partnership, subchapter S corporation, limited liability  
11 company, or estate or trust electing to have the income taxed  
12 directly to the individual, an individual may claim the tax  
13 credit allowed. The amount claimed by the individual shall be  
14 based upon the pro rata share of the individual's earnings of  
15 the partnership, subchapter S corporation, limited liability  
16 company, or estate or trust. For purposes of this section,  
17 "new investment directly related to new jobs created by the  
18 location or expansion of an eligible business under the  
19 program" means the cost of machinery and equipment, as defined  
20 in section 427A.1, subsection 1, paragraphs "e" and "j",  
21 purchased for use in the operation of the eligible business,  
22 the purchase price of which has been depreciated in accordance  
23 with generally accepted accounting principles, and the cost of  
24 improvements made to real property which is used in the  
25 operation of the eligible business ~~and-which-receives-a~~  
26 ~~partial-property-tax-exemption-for-the-actual-value-added~~  
27 ~~under-section-15-332.~~

28 Sec. 2. NEW SECTION. 15E.193C ELIGIBLE DEVELOPMENT  
29 BUSINESS.

30 1. A development business qualifying under this section is  
31 eligible to receive incentives and assistance only as provided  
32 in this section. Sections 15E.193, 15E.193B, and 15E.196 do  
33 not apply to an eligible development business qualifying under  
34 this section.

35 2. An eligible development business includes a developer

1 or development contractor that constructs, expands, or  
2 rehabilitates a building space with a minimum capital  
3 investment of at least five hundred thousand dollars in that  
4 part of a city or county in which there is a designated  
5 enterprise zone. An eligible development business is eligible  
6 for one, but not both, of the following exemptions to the  
7 capital investment requirements:

8 a. For a developer purchasing a vacant building suitable  
9 for industrial use, the fair market value of the building and  
10 land, not to exceed two hundred fifty thousand dollars, as  
11 determined by the local enterprise zone commission, shall be  
12 deducted from the capital investment requirement.

13 b. For a developer that rehabilitates a building space  
14 that has been in an enterprise zone for at least five years,  
15 the fair market value as established by an appraisal of the  
16 building, not to exceed two hundred fifty thousand dollars,  
17 shall be deducted from the capital investment requirement.

18 3. Upon completion of the construction, expansion, or  
19 rehabilitation project by the eligible development business,  
20 the building space shall not be occupied by a retail business.

21 4. An eligible development business shall complete its  
22 construction, expansion, or rehabilitation within three years  
23 from the time the eligible development business receives  
24 approval from the department. The failure to complete  
25 construction, expansion, or rehabilitation within three years  
26 shall result in the eligible development business becoming  
27 ineligible and subject to the repayment requirements and  
28 penalties provided in subsection 7.

29 5. An eligible development business shall provide the  
30 enterprise zone commission with all of the following  
31 information:

32 a. The long-term strategic plan for the development  
33 business which shall include infrastructure needs and the  
34 types of businesses expected to occupy space at the approved  
35 project.

1 b. Information relating to the benefits the development  
2 business will bring to the area.

3 c. Examples of why the development business should be  
4 considered or would be considered a good business enterprise.

5 d. An affidavit that the development business has not,  
6 within the last five years, violated state or federal  
7 environmental and worker safety statutes, rules, and  
8 regulations or if such violation has occurred that there were  
9 mitigating circumstances or the violations did not seriously  
10 affect public health or safety or the environment.

11 6. An eligible development business, which has been  
12 approved to receive incentives and assistance by the  
13 department of economic development pursuant to section  
14 15E.195, shall be eligible to receive all of the following  
15 incentives and assistance for a period not to exceed ten  
16 years:

17 a. An eligible development business may claim a tax credit  
18 up to a maximum of ten percent of the new investment that is  
19 directly related to the construction, expansion, or  
20 rehabilitation of building space to be used for manufacturing,  
21 processing, cold storage, distribution, or office facilities.  
22 For purposes of this section, "new investment" includes the  
23 purchase price of land and the cost of improvements made to  
24 real property. The tax credit may be claimed by an eligible  
25 development business for the tax year in which the  
26 construction, expansion, or rehabilitation is completed. The  
27 tax credit may be used to reduce the tax liability imposed  
28 under chapter 422, division II, III, or V. Any credit in  
29 excess of the tax liability for the tax year may be credited  
30 to the tax liability for the following seven years or until  
31 depleted, whichever occurs earlier. If the business is a  
32 partnership, S corporation, limited liability company, or  
33 estate or trust electing to have the income taxed directly to  
34 the individual, an individual may claim the tax credit  
35 allowed. The amount claimed by the individual shall be based

1 upon the pro rata share of the individual's earnings of the  
2 partnership, S corporation, limited liability company, or  
3 estate or trust.

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

6 c. The county or city for which an eligible enterprise  
7 zone is certified may exempt from all property taxation all or  
8 a portion of the value added to the property upon which an  
9 eligible development business constructs, expands, or  
10 rehabilitates property in an enterprise zone. The amount of  
11 value added for purposes of this shall be the amount of the  
12 increase in assessed valuation of the property following the  
13 construction, expansion, or rehabilitation by the development  
14 business in the enterprise zone. If an exemption provided  
15 pursuant to this is made applicable to only a portion of the  
16 property within an enterprise zone, the definition of that  
17 subset of eligible property must be by uniform criteria that  
18 further some planning objective established by the city or  
19 county enterprise zone commission and approved by the city or  
20 county. The exemption may be allowed for a period not to  
21 exceed ten years beginning the year the eligible development  
22 business enters into an agreement with the county or city to  
23 construct, expand, or rehabilitate property in an enterprise  
24 zone.

25 7. If a development business has received incentives or  
26 assistance under this section and fails to maintain the  
27 requirements of this section to be an eligible development  
28 business, the business is subject to repayment of all or a  
29 portion of the incentives and assistance that it has received.  
30 The department of revenue and finance shall have the authority  
31 to recover the value of state taxes or incentives provided  
32 under this section. The value of state incentives provided  
33 under this section includes applicable interest and penalties.  
34 The department of economic development and the city and  
35 county, as applicable, shall enter into an agreement with the

1 business specifying the method for determining the amount of  
2 incentives or assistance paid which will be repaid in the  
3 event of failure to maintain the requirements of this section.  
4 In addition, a business that fails to maintain the  
5 requirements of this section shall not receive incentives or  
6 assistance for each year during which the business is not in  
7 compliance.

8 8. The department of economic development and the  
9 department of revenue and finance shall each adopt rules  
10 pursuant to chapter 17A to jointly administer this section.

11 9. An eligible business under section 15E.193 is not  
12 eligible for incentives and assistance listed in section  
13 15E.196 if the property is owned, or was previously owned, by  
14 an approved development business that has received incentives  
15 and assistance under section 15E.193C.

16 10. If, within five years of the completion of a  
17 construction, expansion, or rehabilitation project, the  
18 development business, or its successor, sells or leases any  
19 space to any retail business, the development business shall  
20 proportionally refund any tax credits, refunds, or exemptions  
21 which were claimed under this section.

22 Sec. 3. Section 15E.195, Code 2001, is amended to read as  
23 follows:

24 15E.195 ENTERPRISE ZONE COMMISSION.

25 1. A county which designates an enterprise zone pursuant  
26 to section 15E.194, subsection 1, and in which an eligible  
27 enterprise zone is certified shall establish an enterprise  
28 zone commission to review applications from qualified  
29 businesses located within or requesting to locate within an  
30 enterprise zone designated pursuant to section 15E.194,  
31 subsection 1, to receive incentives or assistance as provided  
32 in section 15E.196. The enterprise zone commission shall also  
33 review applications from qualified housing businesses  
34 requesting to receive incentives or assistance as provided in  
35 section 15E.193B. The enterprise zone commission shall also

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

21 2. A city with a population of twenty-four thousand or  
22 more which designates an enterprise zone pursuant to section  
23 15E.194, subsection 2, and in which an eligible enterprise  
24 zone is certified shall establish an enterprise zone  
25 commission to review applications from qualified businesses  
26 located within or requesting to locate within an enterprise  
27 zone to receive incentives or assistance as provided in  
28 section 15E.196. The enterprise zone commission shall review  
29 applications from qualified housing businesses requesting to  
30 receive incentives or assistance as provided in section  
31 15E.193B. The enterprise zone commission shall also review  
32 applications from qualified development businesses requesting  
33 to receive incentives or assistance as provided in section  
34 15E.193C. The commission shall consist of nine members. Six  
35 of these members shall consist of one representative of an

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

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

34 4. If the enterprise zone commission determines that a  
35 business qualifies and is eligible to receive incentives or

1 assistance as provided in either section 15E.193B or ~~section~~,  
2 15E.193C, or 15E.196, the commission shall submit an  
3 application for incentives or assistance to the department of  
4 economic development. The department may approve, defer, or  
5 deny the application.

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

21 However, if the commission or department finds that an  
22 eligible business has a record of violations of the law,  
23 including but not limited to environmental and worker safety  
24 statutes, rules, and regulations, over a period of time that  
25 tends to show a consistent pattern, the eligible business  
26 shall not qualify for incentives or assistance under section  
27 15E.193B, 15E.193C, or ~~section~~ 15E.196, unless the commission  
28 or department finds that the violations did not seriously  
29 affect public health or safety or the environment, or if it  
30 did that there were mitigating circumstances. In making the  
31 findings and determinations regarding violations, mitigating  
32 circumstances, and whether an eligible business is eligible  
33 for incentives or assistance under section 15E.193B, 15E.193C,  
34 or ~~section~~ 15E.196, the commission or department shall be  
35 exempt from chapter 17A. If requested by the commission or

1 department, the business shall provide copies of materials  
2 documenting the type of violation, any fees or penalties  
3 assessed, court filings, final disposition of any findings and  
4 any other information which would assist the commission or  
5 department in assessing the nature of any violation.

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

12 Sec. 4. Section 15E.196, Code 2001, is amended by adding  
13 the following new subsection:

14 NEW SUBSECTION. 7. A business eligible to receive  
15 incentives and assistance described in this section and  
16 located in a building for which incentives and assistance are  
17 or have been claimed by an approved development business under  
18 section 15E.193C is not eligible to receive the following  
19 incentives and assistance:

20 a. An investment tax credit under subsection 3 for the  
21 portion of the investment tax credit that is claimed on the  
22 purchase price of land or improvements to real property by an  
23 approved development business pursuant to section 15E.193C,  
24 subsection 6, paragraph "a".

25 b. Sales, services, and use tax refund under subsection 2  
26 that is made pursuant to section 15E.193C, subsection 6,  
27 paragraph "b".

28 c. A property tax exemption under subsection 5 for  
29 improvements to real property that are exempted from property  
30 taxation pursuant to section 15E.193C, subsection 6, paragraph  
31 "c".

32 Sec. 5. RETROACTIVE APPLICABILITY. This Act is  
33 retroactively applicable to January 1, 2001, and is applicable  
34 on and after that date.

35 EXPLANATION

1 This bill amends the enterprise zone program administered  
2 by the department of economic development.

3 The bill creates a new type of eligible business under the  
4 program. The bill provides that a development business is  
5 eligible to receive incentives and assistance under the  
6 program if the business constructs, expands, or rehabilitates  
7 a building space with a minimum capital investment of at least  
8 \$500,000 in that part of a city or county in which there is a  
9 designated enterprise zone. The bill provides for two  
10 possible exemptions to the capital investment requirement.  
11 The bill provides that, upon completion of the construction,  
12 expansion, or rehabilitation project, the building space shall  
13 not be occupied by retail business. The bill provides that  
14 the development business shall complete the construction,  
15 expansion, or rehabilitation of the building space within  
16 three years from the time the business receives approval from  
17 the department.

18 The bill provides that an eligible development business  
19 which has been approved to receive incentives and assistance  
20 shall be eligible to receive a new investment tax credit for  
21 up to a maximum of 10 percent of the new investment; a sales,  
22 services, and use tax refund; and a property tax exemption for  
23 all or a portion of the value added to the property. The  
24 incentives and assistance may be received for a period of 10  
25 years. The bill provides for the repayment of incentives and  
26 assistance received under the program if a development  
27 business fails to meet the requirements of the program or if  
28 the building space is sold or leased to retail business within  
29 five years of the completion of construction, expansion, or  
30 rehabilitation.

31 The bill provides that a business eligible to receive  
32 incentives and assistance under the other portion of the  
33 enterprise zone program and located in a building for which a  
34 development business received incentives and assistance under  
35 the program shall receive reduced incentives and assistance.

1 The bill provides that an eligible business shall not receive  
2 a benefit that has already been received by an eligible  
3 development business.

4 The bill amends the new investment tax credit under the new  
5 jobs and income Act that is also currently available under the  
6 enterprise zone program. The bill amends the term "new  
7 investment directly related to new jobs created by the  
8 location or expansion of an eligible business under the  
9 program" to remove the requirement that the cost of  
10 improvements made to real property must be that which receives  
11 a partial property tax exemption for the actual value added.

12 The bill provides a number of conforming amendments  
13 necessary as a result of adding the development business  
14 provisions to the enterprise zone program.

15 The bill is retroactively applicable to January 1, 2001,  
16 and is applicable on and after that date.

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