CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

May 22, 2009

The Honorable Michael Mauro
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit:

Senate File 483, an Act relating to state taxes by limiting tax credits available under certain economic development programs and agricultural assets transfer agreements, eliminating the carryback of net operating losses, and including retroactive applicability date and other applicability date provisions.

The above Senate File is hereby approved this date.

Sincerely,

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House

SENATE FILE 483

AN ACT

RELATING TO STATE TAXES BY LIMITING TAX CREDITS AVAILABLE UNDER CERTAIN ECONOMIC DEVELOPMENT PROGRAMS AND AGRICULTURAL ASSETS TRANSFER AGREEMENTS, ELIMINATING THE CARRYBACK OF NET OPERATING LOSSES, AND INCLUDING RETROACTIVE APPLICABILITY DATE AND OTHER APPLICABILITY DATE PROVISIONS.

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

DIVISION I

TAX CREDIT LIMITS

Section 1. NEW SECTION. 15.119 AGGREGATE TAX CREDIT LIMIT FOR CERTAIN ECONOMIC DEVELOPMENT PROGRAMS.

1. Notwithstanding any provision to the contrary in sections 15.327 through 15.336, 15.393, section 15A.9, subsection 8, sections 15E.191 through 15E.197, and 422.11E, and section 422.33, subsection 9, the department shall not authorize an amount of tax credits for purposes specified in subsection 2 in excess of one hundred eighty-five million dollars for any fiscal year. However, the department may authorize an amount of tax credits in one fiscal year in excess of one hundred eighty-five million, and such excess amount shall be counted against the total amount of tax credits that may be authorized in the next fiscal year.

2. The department, with the approval of the board, shall adopt by rule a procedure for allocating the aggregate tax credit limit established in this section among the following programs administered by the department:

a. The high quality job creation program administered pursuant to sections 15.326 through 15.336.

b. The film, television, and video project promotion program administered pursuant to sections 15.391 through 15.393.

c. The corporate tax research credit under the quality jobs enterprise zone program pursuant to section 15A.9, subsection 8.

d. The enterprise zones program administered pursuant to sections 15E.191 through 15E.197.

e. The assistive device tax credit program administered pursuant to section 422.11E and section 422.33, subsection 9.

3. The department shall submit to the department of revenue on or before August 15 of each year a report on the tax credits allocated pursuant to this section and the tax credits awarded under each of the programs described in subsection 2.

Sec. 2. Section 175.37, Code 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The amount of tax credit certificates that may be issued pursuant to this section shall not exceed six million dollars in any fiscal year. The authority shall issue the tax credit certificates on a first-come, first-served basis.

Sec. 3. APPLICABILITY DATES.

1. The section of this division of this Act amending section 175.37 applies to agricultural assets transfer agreements executed on or after July 1, 2009.

2. The section of this division of this Act enacting section 15.119 applies to tax credits awarded on or after July 1, 2009.

DIVISION II

NET OPERATING LOSS CARRYBACK

Sec. 4. Section 422.35, subsection 11, Code 2009, is amended to read as follows:

11. If after applying all of the adjustments provided for in this section and the allocation and apportionment provisions of section 422.33, the Iowa taxable income results in a net operating loss, such net operating loss shall be deducted as follows:

a. ~~The~~ For tax years beginning prior to January 1, 2009, the Iowa net operating loss shall be carried back three

taxable years for a net operating loss incurred in a presidentially declared disaster area by a taxpayer engaged in a small business or in the trade or business of farming. For all other Iowa net operating losses for tax years beginning prior to January 1, 2009, the net operating loss shall be carried back two taxable years or to the taxable year in which the corporation first commenced doing business in this state, whichever is later.

b. ~~The~~ An Iowa net operating loss for a tax year beginning on or after January 1, 2009, or an Iowa net operating loss remaining after being carried back as required in paragraph "a" or "f" ~~or if not required to be carried back~~ shall be carried forward twenty taxable years.

c. If the election under section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward twenty taxable years.

d. No portion of a net operating loss which was sustained from that portion of the trade or business carried on outside the state of Iowa shall be deducted.

e. The limitations on net operating loss carryback and carryforward under sections 172(b)(1)(E) and 172(h) of the Internal Revenue Code shall apply.

f. Notwithstanding paragraph "a", for a taxpayer who is engaged in the trade or business of farming as defined in section 263A(e)(4) of the Internal Revenue Code and has a loss from farming as defined in section 172(b)(1)(F) of the Internal Revenue Code including modifications prescribed by rule by the director, the Iowa loss from the trade or business of farming, for tax years beginning prior to January 1, 2009, is a net operating loss which may be carried back five taxable years prior to the taxable year of the loss.

g. ~~Provided, however, that~~ The deductions described in paragraphs "a" through "f" of this subsection are allowed subject to the requirement that a corporation affected by the allocation provisions of section 422.33 shall be permitted to deduct only ~~such~~ that portion of the deductions for net operating loss and federal income taxes ~~as~~ that is fairly and equitably allocable to Iowa, under rules prescribed by the director.

Sec. 5. RETROACTIVE APPLICABILITY DATE. This division of this Act applies retroactively to January 1, 2009, for tax years beginning on or after that date.

JOHN P. KIBBIE
President of the Senate

PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 483, Eighty-third General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved May 22nd, 2009

CHESTER J. CULVER
Governor