House Study Bill 737

Bill Text

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Section 1. NEW SECTION. 15E.41 PURPOSE.

The purpose of this division is to enhance the quality of life for citizens of this state by encouraging the creation of new jobs, industry, products, and wealth through the increased availability and accessibility to capital, particularly at the seed and venture capital investment stages.

Sec. 2. NEW SECTION. 15E.42 TAX CREDITS.

1. For tax years beginning on or after January 1, 2000, a tax credit shall be allowed against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, for net losses, as described in section 15E.43, subsection 2, incurred by a taxpayer in an equity investment approved pursuant to section 15E.43. An individual may claim the credit 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. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following three years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit.

2. The maximum tax credit for a qualifying taxpayer shall not exceed fifty percent of the taxpayer's original equity investment in an approved investment or one hundred thousand dollars, whichever is less.

3. The aggregate amount of tax credits issued under this section for taxes imposed pursuant to chapter 422, divisions II, III, and V, and chapter 432 shall not exceed a total of thirty-five million dollars.

4. The department of revenue and finance, in consultation with the department of economic development, shall develop a system for registration, issuance, and redemption of tax credits issued by the state under this section. The department of revenue and finance and the department of economic development shall adopt any other policies, procedures, or rules pursuant to chapter 17A necessary for the administration of this division and of tax credits issued by the state under this section.

Sec. 3. NEW SECTION. 15E.43 APPROVED INVESTMENTS.

1. In order for an investment to qualify for a tax credit under section 15E.42, the investment must be approved by the department of economic development and be in a qualifying business. In order to be a qualifying business, the business must meet all of the following criteria:

a. The business has a business plan which details the business's growth strategy, the management team if applicable, a production or management plan, a financial plan, and other standard elements of a business plan.

b. The business has an owner who is currently participating in, or has successfully completed, a recognized entrepreneurial venture development curriculum or have an owner with a minimum of three years of management experience.

c. The business is not a business engaged primarily in retail sales.

d. The business is headquartered in this state and its principal business operations are located in this state.

e. The business has no more than one hundred employees, at least seventy-five percent of whom are employed in the state.

f. During the two most recent fiscal years of the business, the business had an average annual net income, after federal income taxes and excluding any carry-over losses, of not more than two million dollars as determined in accordance with generally accepted accounting principles.

g. The business has a net worth that is not in excess of five million dollars.

h. The business is not predominately engaged in the provision of professional services provided by accountants, attorneys, or physicians.

i. The business is not engaged in the development of real estate for resale.

j. The business is not engaged in banking or lending.

k. The business is predominantly engaged in a targeted industry as described in section 15.329, subsection 2, paragraph "b", subparagraphs (1) and (3) through (10).

l. It is the intent of the business to provide long-term attractive compensation packages with many of the compensation packages for owners and employees to be risk and venture based with a focus on future returns.

2. The tax credit authorized under section 15E.42 may be redeemed for losses of the taxpayer's original equity investment incurred upon the insolvency of the business. The tax credit shall not be redeemed later than ten years from the date of the qualifying investment.

3. A taxpayer may, prior to making an investment in a specified business, request a written opinion from the department that a business in which it proposes to invest is a qualified business. The department shall issue a written opinion stating whether the business meets the criteria under subsection 1 for a qualified business.

4. A taxpayer shall submit an application for an approved investment to the department on a form prescribed by the department. The application shall include the name of the taxpayer applying for approval, the name of the qualifying business, the amount of the proposed equity investment, and any other information specified by the department. The application shall also include an undertaking by the taxpayer to make the equity investment within five days after the department notifies the taxpayer that the investment has been approved.

Sec. 4. <u>NEW SECTION</u>. 15E.44 REPORTS AND RESERVES.

1. By December 15 of each year, the department of economic development, in consultation with the department of revenue and finance, shall submit a report to the governor and the general assembly. The report shall include, but not be limited to, the anticipated value of any tax credits issued and the estimated current and anticipated impact the approved investments have on the state.

2. The department of economic development shall conduct an annual risk analysis which matches the current and anticipated value of approved equity investments with the current and anticipated value of any tax credits issued. If the anticipated value of the tax credits authorized exceeds the anticipated value of approved investments, the department of economic development shall establish a reserve account within the repayment stream of an Iowa agricultural industry finance loan made pursuant to section 15E.208 sufficient to cover such losses to the general fund of the state in the event that tax credits are redeemed.

Sec. 5. <u>NEW SECTION</u>. 422.11C APPROVED INVESTMENT TAX CREDIT.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an approved investment tax credit received pursuant to sections 15E.41 through 15E.44.

An individual may claim the approved investment tax credit allowed a partnership, limited liability company, S corporation, or estate or trust electing to have the 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 of the partnership, limited liability company, S corporation, or estate or trust.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following three years or until depleted, whichever is earlier.

Sec. 6. Section 422.33, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The taxes imposed under this division shall be reduced by an approved investment tax credit received pursuant to sections 15E.41 through 15E.44.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following three tax years or until depleted, whichever is earlier.

Sec. 7. Section 422.60, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The taxes imposed under this division shall be reduced by an approved investment tax credit received pursuant to sections 15E.41 through 15E.44.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following three tax years or until depleted, whichever is earlier.

Sec. 8. NEW SECTION. 432.12A APPROVED INVESTMENT TAX CREDIT.

The taxes imposed under this chapter shall be reduced by an approved investment tax credit received pursuant to sections 15E.41 through 15E.44.

Any credit in excess of the tax liability for the calendar year may be credited to the tax liability for the following three calendar years or until depleted, whichever is earlier.

EXPLANATION

This bill creates a personal income, corporate income, financial institution franchise, and insurance premium tax credit which may be claimed by a taxpayer for net losses incurred by the taxpayer in an approved equity investment. The bill provides that any tax credit in excess of the taxpayer's liability may be credited to the tax liability for the following three years or until depleted, whichever is earlier. The bill provides that the tax credit shall not be carried back to previous tax years. The bill provides that the maximum tax credit for a qualifying taxpayer shall not exceed 50 percent of the taxpayer's original equity investment in an approved investment or $100,000, whichever is less. The bill provides that the aggregate amount of tax credits issued by the state shall not exceed a total of $35 million.

The bill provides that in order for an investment to qualify for a tax credit, the investment must be approved by the department of economic development and be in a qualifying business which meets certain criteria. The bill provides that a taxpayer may request the department to issue a written opinion regarding whether a business meets the criteria of a qualifying business. The bill provides for an application procedure for the taxpayer to perform and provides that the taxpayer shall make the approved investment within five days after the department notifies the taxpayer that the investment has been approved. The bill provides that a tax credit may be redeemed for losses of the taxpayer's original equity investment incurred upon the insolvency of the business. The bill provides that the tax credit shall not be redeemed later than 10 years from the date of the qualifying investment.

The bill provides that, by December 15 of each year, the department of economic development, in consultation with the department of revenue and finance, shall submit a report to the governor and the general assembly relating to the anticipated value of any tax credits issued and the estimated current and anticipated impact the approved investments have on the state. The bill provides that the department of economic development shall conduct an annual risk analysis which matches the current and anticipated value of approved equity investments with the current and anticipated value of any tax credits issued. The bill provides that if the anticipated value of the tax credits authorized exceeds the anticipated value of qualifying equity investments, the department of economic development shall establish a reserve account within the repayment stream of an Iowa agricultural industry finance loan made pursuant to Code section 15E.208 sufficient to cover such losses to the general fund of the state in the event that tax credits are redeemed.

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