

# House Study Bill 737

## Bill Text

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1 1 Section 1. NEW SECTION. 15E.41 PURPOSE.  
1 2 The purpose of this division is to enhance the quality of  
1 3 life for citizens of this state by encouraging the creation of  
1 4 new jobs, industry, products, and wealth through the increased  
1 5 availability and accessibility to capital, particularly at the  
1 6 seed and venture capital investment stages.  
1 7 Sec. 2. NEW SECTION. 15E.42 TAX CREDITS.  
1 8 1. For tax years beginning on or after January 1, 2000, a  
1 9 tax credit shall be allowed against the taxes imposed in  
1 10 chapter 422, divisions II, III, and V, and in chapter 432, for  
1 11 net losses, as described in section 15E.43, subsection 2,  
1 12 incurred by a taxpayer in an equity investment approved  
1 13 pursuant to section 15E.43. An individual may claim the  
1 14 credit of a partnership, limited liability company, S  
1 15 corporation, estate or trust electing to have income taxed  
1 16 directly to the individual. The amount claimed by the  
1 17 individual shall be based upon the pro rata share of the  
1 18 individual's earnings from the partnership, limited liability  
1 19 company, S corporation, estate or trust. Any tax credit in  
1 20 excess of the taxpayer's liability for the tax year may be  
1 21 credited to the tax liability for the following three years or  
1 22 until depleted, whichever is earlier. A tax credit shall not  
1 23 be carried back to a tax year prior to the tax year in which  
1 24 the taxpayer redeems the tax credit.  
1 25 2. The maximum tax credit for a qualifying taxpayer shall  
1 26 not exceed fifty percent of the taxpayer's original equity  
1 27 investment in an approved investment or one hundred thousand  
1 28 dollars, whichever is less.  
1 29 3. The aggregate amount of tax credits issued under this  
1 30 section for taxes imposed pursuant to chapter 422, divisions  
1 31 II, III, and V, and chapter 432 shall not exceed a total of  
1 32 thirty-five million dollars.  
1 33 4. The department of revenue and finance, in consultation  
1 34 with the department of economic development, shall develop a  
1 35 system for registration, issuance, and redemption of tax  
2 1 credits issued by the state under this section. The  
2 2 department of revenue and finance and the department of  
2 3 economic development shall adopt any other policies,  
2 4 procedures, or rules pursuant to chapter 17A necessary for the  
2 5 administration of this division and of tax credits issued by  
2 6 the state under this section.  
2 7 Sec. 3. NEW SECTION. 15E.43 APPROVED INVESTMENTS.  
2 8 1. In order for an investment to qualify for a tax credit  
2 9 under section 15E.42, the investment must be approved by the  
2 10 department of economic development and be in a qualifying  
2 11 business. In order to be a qualifying business, the business  
2 12 must meet all of the following criteria:  
2 13 a. The business has a business plan which details the  
2 14 business's growth strategy, the management team if applicable,  
2 15 a production or management plan, a financial plan, and other  
2 16 standard elements of a business plan.  
2 17 b. The business has an owner who is currently  
2 18 participating in, or has successfully completed, a recognized  
2 19 entrepreneurial venture development curriculum or have an  
2 20 owner with a minimum of three years of management experience.  
2 21 c. The business is not a business engaged primarily in

2 22 retail sales.

2 23 d. The business is headquartered in this state and its  
2 24 principal business operations are located in this state.

2 25 e. The business has no more than one hundred employees, at  
2 26 least seventy-five percent of whom are employed in the state.

2 27 f. During the two most recent fiscal years of the  
2 28 business, the business had an average annual net income, after  
2 29 federal income taxes and excluding any carry-over losses, of  
2 30 not more than two million dollars as determined in accordance  
2 31 with generally accepted accounting principles.

2 32 g. The business has a net worth that is not in excess of  
2 33 five million dollars.

2 34 h. The business is not predominately engaged in the  
2 35 provision of professional services provided by accountants,  
3 1 attorneys, or physicians.

3 2 i. The business is not engaged in the development of real  
3 3 estate for resale.

3 4 j. The business is not engaged in banking or lending.

3 5 k. The business is predominantly engaged in a targeted  
3 6 industry as described in section 15.329, subsection 2,  
3 7 paragraph "b", subparagraphs (1) and (3) through (10).

3 8 1. It is the intent of the business to provide long-term  
3 9 attractive compensation packages with many of the compensation  
3 10 packages for owners and employees to be risk and venture based  
3 11 with a focus on future returns.

3 12 2. The tax credit authorized under section 15E.42 may be  
3 13 redeemed for losses of the taxpayer's original equity  
3 14 investment incurred upon the insolvency of the business. The  
3 15 tax credit shall not be redeemed later than ten years from the  
3 16 date of the qualifying investment.

3 17 3. A taxpayer may, prior to making an investment in a  
3 18 specified business, request a written opinion from the  
3 19 department that a business in which it proposes to invest is a  
3 20 qualified business. The department shall issue a written  
3 21 opinion stating whether the business meets the criteria under  
3 22 subsection 1 for a qualified business.

3 23 4. A taxpayer shall submit an application for an approved  
3 24 investment to the department on a form prescribed by the  
3 25 department. The application shall include the name of the  
3 26 taxpayer applying for approval, the name of the qualifying  
3 27 business, the amount of the proposed equity investment, and  
3 28 any other information specified by the department. The  
3 29 application shall also include an undertaking by the taxpayer  
3 30 to make the equity investment within five days after the  
3 31 department notifies the taxpayer that the investment has been  
3 32 approved.

3 33 Sec. 4. NEW SECTION. 15E.44 REPORTS AND RESERVES.

3 34 1. By December 15 of each year, the department of economic  
3 35 development, in consultation with the department of revenue  
4 1 and finance, shall submit a report to the governor and the  
4 2 general assembly. The report shall include, but not be  
4 3 limited to, the anticipated value of any tax credits issued  
4 4 and the estimated current and anticipated impact the approved  
4 5 investments have on the state.

4 6 2. The department of economic development shall conduct an  
4 7 annual risk analysis which matches the current and anticipated  
4 8 value of approved equity investments with the current and  
4 9 anticipated value of any tax credits issued. If the  
4 10 anticipated value of the tax credits authorized exceeds the  
4 11 anticipated value of approved investments, the department of  
4 12 economic development shall establish a reserve account within  
4 13 the repayment stream of an Iowa agricultural industry finance  
4 14 loan made pursuant to section 15E.208 sufficient to cover such  
4 15 losses to the general fund of the state in the event that tax  
4 16 credits are redeemed.

4 17 Sec. 5. NEW SECTION. 422.11C APPROVED INVESTMENT TAX  
4 18 CREDIT.

4 19 The taxes imposed under this division, less the credits  
4 20 allowed under sections 422.12 and 422.12B, shall be reduced by  
4 21 an approved investment tax credit received pursuant to  
4 22 sections 15E.41 through 15E.44.

4 23 An individual may claim the approved investment tax credit  
4 24 allowed a partnership, limited liability company, S  
4 25 corporation, or estate or trust electing to have the income  
4 26 taxed directly to the individual. The amount claimed by the  
4 27 individual shall be based upon the pro rata share of the  
4 28 individual's earnings of the partnership, limited liability  
4 29 company, S corporation, or estate or trust.

4 30 Any credit in excess of the tax liability for the tax year  
4 31 may be credited to the tax liability for the following three  
4 32 years or until depleted, whichever is earlier.

4 33 Sec. 6. Section [422.33](#), Code Supplement 1999, is amended  
4 34 by adding the following new subsection:

4 35 NEW SUBSECTION. 9. The taxes imposed under this division  
5 1 shall be reduced by an approved investment tax credit received  
5 2 pursuant to sections 15E.41 through 15E.44.

5 3 Any credit in excess of the tax liability for the tax year  
5 4 may be credited to the tax liability for the following three  
5 5 tax years or until depleted, whichever is earlier.

5 6 Sec. 7. Section [422.60](#), Code 1999, is amended by adding  
5 7 the following new subsection:

5 8 NEW SUBSECTION. 4. The taxes imposed under this division  
5 9 shall be reduced by an approved investment tax credit received  
5 10 pursuant to sections 15E.41 through 15E.44.

5 11 Any credit in excess of the tax liability for the tax year  
5 12 may be credited to the tax liability for the following three  
5 13 tax years or until depleted, whichever is earlier.

5 14 Sec. 8. NEW SECTION. 432.12A APPROVED INVESTMENT TAX  
5 15 CREDIT.

5 16 The taxes imposed under this chapter shall be reduced by an  
5 17 approved investment tax credit received pursuant to sections  
5 18 15E.41 through 15E.44.

5 19 Any credit in excess of the tax liability for the calendar  
5 20 year may be credited to the tax liability for the following  
5 21 three calendar years or until depleted, whichever is earlier.

5 22 EXPLANATION

5 23 This bill creates a personal income, corporate income,  
5 24 financial institution franchise, and insurance premium tax  
5 25 credit which may be claimed by a taxpayer for net losses  
5 26 incurred by the taxpayer in an approved equity investment.  
5 27 The bill provides that any tax credit in excess of the  
5 28 taxpayer's liability may be credited to the tax liability for  
5 29 the following three years or until depleted, whichever is  
5 30 earlier. The bill provides that the tax credit shall not be  
5 31 carried back to previous tax years. The bill provides that  
5 32 the maximum tax credit for a qualifying taxpayer shall not  
5 33 exceed 50 percent of the taxpayer's original equity investment  
5 34 in an approved investment or \$100,000, whichever is less. The  
5 35 bill provides that the aggregate amount of tax credits issued  
6 1 by the state shall not exceed a total of \$35 million.

6 2 The bill provides that in order for an investment to  
6 3 qualify for a tax credit, the investment must be approved by  
6 4 the department of economic development and be in a qualifying  
6 5 business which meets certain criteria. The bill provides that  
6 6 a taxpayer may request the department to issue a written  
6 7 opinion regarding whether a business meets the criteria of a  
6 8 qualifying business. The bill provides for an application  
6 9 procedure for the taxpayer to perform and provides that the  
6 10 taxpayer shall make the approved investment within five days  
6 11 after the department notifies the taxpayer that the investment  
6 12 has been approved. The bill provides that a tax credit may be  
6 13 redeemed for losses of the taxpayer's original equity  
6 14 investment incurred upon the insolvency of the business. The  
6 15 bill provides that the tax credit shall not be redeemed later

6 16 than 10 years from the date of the qualifying investment.  
6 17 The bill provides that, by December 15 of each year, the  
6 18 department of economic development, in consultation with the  
6 19 department of revenue and finance, shall submit a report to  
6 20 the governor and the general assembly relating to the  
6 21 anticipated value of any tax credits issued and the estimated  
6 22 current and anticipated impact the approved investments have  
6 23 on the state. The bill provides that the department of  
6 24 economic development shall conduct an annual risk analysis  
6 25 which matches the current and anticipated value of approved  
6 26 equity investments with the current and anticipated value of  
6 27 any tax credits issued. The bill provides that if the  
6 28 anticipated value of the tax credits authorized exceeds the  
6 29 anticipated value of qualifying equity investments, the  
6 30 department of economic development shall establish a reserve  
6 31 account within the repayment stream of an Iowa agricultural  
6 32 industry finance loan made pursuant to Code section 15E.208  
6 33 sufficient to cover such losses to the general fund of the  
6 34 state in the event that tax credits are redeemed.  
6 35 LSB 6053YC 78  
7 1 tm/cls/14