Behn
Shearer
Veenstra

SSB 3016

Small Business &
Economic Development

Succeeded By
SENATE/HOUSE FILE ~~(__)~~ 2441
BY (PROPOSED DEPARTMENT OF
ECONOMIC DEVELOPMENT BILL)

Passed Senate, Date __________ Passed House, Date __________
Vote: Ayes ______ Nays ______ Vote: Ayes ______ Nays ______
Approved ____________________

A BILL FOR

An Act relating to the refundability of the investment tax credit under the new jobs and income program.

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

TLSB 5327DP 78
tm/cls/14

Section 1. Section 15.333, subsection 1, Code Supplement 1999, is amended to read as follows:

1. An eligible business may claim a corporate tax credit up to a maximum of ten percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business under the program. Any 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. Subject to prior approval by the department of economic development in consultation with the department of revenue and finance, an eligible business whose project primarily involves the production of value-added agricultural products may elect to have any tax credit in excess of the tax liability of the taxpayer for the tax year refunded with interest computed pursuant to section 422.25. If the business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust. For purposes of this section, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, and the cost of improvements made to real property which is used in the operation of the eligible business and which receives a partial property tax exemption for the actual value added under section 15.332.

EXPLANATION

This bill amends the investment tax credit under the new jobs and income program, which allows an eligible business to claim a corporate tax credit up to a maximum of 10 percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business under the program. The investment tax credit is also available to eligible businesses in the enterprise zone program. The bill provides that an eligible business whose project primarily involves the production of value-added agricultural projects may elect to have any investment tax credit in excess of the tax liability of the taxpayer refunded with interest. The bill provides that the refund must receive prior approval from the department of economic development in consultation with the department of revenue and finance.

IOWA
DEPARTMENT OF
ECONOMIC DEVELOPMENT

TO: General Assembly
FROM: Georgia Soliday, IDED Legislative Liaison
DATE: November 19, 1999
RE: 15.333 Investment Tax Credit

Two of the most important programs that the Iowa Department of Economic Development (IDED) has available to encourage capital investment and job creation are the New Jobs and Income Program (NJIP) and the Enterprise Zone (EZ) Program. Both programs provide for essentially the same incentives for companies to locate here in Iowa, expand, and create jobs. One important benefit is that eligible companies are entitled to a 10% investment tax credit (ITC), based on all of the project's eligible capital expenditures. This ITC may be used, dollar for dollar, to offset any State of Iowa corporate income tax that is owed. This ITC can be quite an incentive for some companies with a lot of taxable income in Iowa.

For companies with little or no corporate sales and income in Iowa, the ITC provisions of the NJIP and EZ program are of little or no value. Therefore, we have very little advantage in trying to provide incentives to many of these types of companies to expand or locate in Iowa. For example, a corporate led initiative for an ethanol plant in Iowa would currently be eligible for this particular tax credit but a producer led initiative would not normally be able to use the credit. Our goal with these initiatives is to build new markets and help contribute to defining Iowa as the food capital of the world.

By allowing NJIP and EZ Program eligible companies to transfer their unused ITC's, they would realize more financial gain by using these programs, thus making an Iowa location or expansion more desirable. If the ITC's could be transferred, the IDED anticipates more NJIP and EZ projects would occur, resulting in more high paying, capital intensive jobs being created in Iowa which in turn could attract more Iowan's who are better paid.

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H-4/18/00 W. & Means

FILED APR 3 '00

SENATE FILE 2441
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2353)
(SUCCESSOR TO SSB 3016)

(P. 1215)

Passed Senate, Date 4-18-00 Passed House, Date ______
Vote: Ayes 48 Nays 0 Vote: Ayes ______ Nays ______
Approved ______

A BILL FOR

An Act relating to the transferability of the investment tax credit under the new jobs and income program and including an effective date and applicability provision.

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

SF 2441

TLSB 5327SZ 78
tm/cls/14

S.F. 2441 H.F. _______

Section 1. Section 15.333, subsection 1, Code Supplement 1999, is amended to read as follows:

1. An eligible business may claim a corporate tax credit up to a maximum of ten percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business under the program. Any 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. Subject to prior approval by the department of economic development in consultation with the department of revenue and finance, an eligible business whose project primarily involves the production of value-added agricultural products may elect to transfer all or a portion of an unused tax credit to any other person. A tax credit shall only be transferred once and the transferee shall not make a subsequent transfer of the tax credit. The transferee may use the amount of the tax credit transferred against a tax liability imposed under chapter 422, division II, III, or V for any tax year the original transferor could have claimed the credit. If the business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust. For purposes of this section, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, and the cost of improvements made to real property which is used in the

operation of the eligible business and which receives a partial property tax exemption for the actual value added under section 15.332.

1A. Any consideration received for a transfer of a tax credit pursuant to subsection 1 shall not be included as income under chapter 422, division II, III, or V. Any consideration paid for a transfer of a tax credit pursuant to subsection 1 shall not be deducted from income under chapter 422, division II, III, or V. The amount of the new investment directly related to new jobs created by the location or expansion of an eligible business under the program which equals the tax credit claimed shall not be deducted by the transferor from income under chapter 422, division II, III, or V.

1B. An eligible business whose project primarily involves the production of value-added agricultural products shall apply to the department of economic development for tax credit certificates. An eligible business whose project primarily involves the production of value-added agricultural products shall not claim a tax credit under this section unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's tax return for the tax year during which the tax credit is claimed. A tax credit certificate shall not be valid until the tax year following the date of the project completion. A tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of the tax credit, other information required by the department of revenue and finance, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred. The department of economic development shall not issue tax credit certificates which total more than four million dollars during a fiscal year. If the department receives applications for tax credit certificates in excess of four million dollars, the applicants shall receive certificates for a prorated amount.

Sec. 2. EFFECTIVE DATE AND APPLICABILITY. This Act takes effect July 1, 2001, and applies to tax years beginning on or after that date.

EXPLANATION

This bill amends the investment tax credit under the new jobs and income program, which allows an eligible business to claim a corporate tax credit up to a maximum of 10 percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business under the program. The investment tax credit is also available to eligible businesses in the enterprise zone program. The bill provides that an eligible business whose project primarily involves the production of value-added agricultural projects may elect to transfer all or a portion of an unused tax credit to any other person. The bill provides that a tax credit shall only be transferred once and the transferee shall not make a subsequent transfer of the tax credit. The bill provides that any consideration received for a transfer of a tax credit shall not be included as income, any consideration paid for a transfer of a tax credit shall not be deducted from income, and the amount of the new investment under the program which equals the tax credit claimed shall not be deducted by the transferor from income.

The bill provides that an eligible business whose project primarily involves the production of value-added agricultural products shall apply to the department of economic development for tax credit certificates which shall be required to claim the tax credit. The bill provides that a tax credit certificate shall not be valid until the tax year following the date of the project completion. The bill provides that the department shall not issue tax credit certificates which total more than $4 million during a fiscal year and if the department receives applications for certificates in excess of $4 million, the applicants shall receive certificates for a prorated amount.

The bill takes effect July 1, 2001, and applies to tax years beginning on or after that date.

SENATE FILE 2441
FISCAL NOTE

A fiscal note for **Senate File 2441** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2441 allows the New Jobs and Income Program 10.0% investment tax credit to be sold by a qualified company, if the project for which the credit is allowed primarily involves value-added agriculture. The purchaser of the tax credits may use the credits to offset State personal income tax, corporate income tax, or financial institution franchise tax. The total amount of tax credits approved in a fiscal year is limited to $4.0 million.

The amount received by the seller for the tax credits is not taxable income, and the amount paid for the credits by the purchaser is not deductible. The Bill is effective July 1, 2001, and the tax credits cannot be used until the tax year following the year the project is completed.

ASSUMPTIONS

1. Projects that primarily involve value-added agriculture currently qualify for New Jobs and Income Program investment tax credits equal to $4.6 million per year. However, due to the lack of taxable income, the projects are only able to utilize $2.3 million of those tax credits annually.
2. The Department of Economic Development will approve the first projects after the Bill's effective date of July 1, 2001, and the project completion dates of those projects will not occur until after December 31, 2001.
3. Beginning with FY 2003, the full $4.0 million per year in tax credits will be utilized.

FISCAL IMPACT

Beginning with FY 2003, Senate File 2441 will decrease General Fund tax revenues by $1.7 million per year. This amount is the difference between the amount of tax credit currently utilized and the $4.0 million cap contained in the Bill.

SOURCE

Department of Economic Development

(LSB 5327SZ, JWR)

FILED APRIL 5, 2000 BY DENNIS PROUTY, FISCAL DIRECTOR