

Senate Study Bill 3100

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 venture capital,
1 6 particularly at the seed capital investment stage, and to
1 7 encourage individuals to invest seed capital in Iowa
1 8 businesses and in community-based seed capital funds.
1 9 Sec. 2. NEW SECTION. 15E.42 DEFINITIONS.
1 10 For purposes of this division, unless the context otherwise
1 11 requires:
1 12 1. "Affiliate" means a spouse or child of an investor or a
1 13 corporation, partnership, or trust in which an investor has a
1 14 controlling equity interest or in which an investor exercises
1 15 management control.
1 16 2. "Board" means the Iowa capital investment board, if
1 17 created in House File 2078 as enacted by the Seventy-ninth
1 18 general assembly.
1 19 3. "Investor" means an individual making a cash investment
1 20 in a qualifying business or a community-based seed capital
1 21 fund. "Investor" does not include an individual who is an
1 22 owner, member, or shareholder in a qualifying business.
1 23 4. "Near equity" means debt that may be converted to
1 24 equity at the option of the debt holder, and royalty
1 25 agreements.
1 26 5. "Qualifying business" means a business meeting the
1 27 criteria defined in section 15E.44.
1 28 Sec. 3. NEW SECTION. 15E.43 INVESTMENT TAX CREDITS.
1 29 1. For tax years beginning on or after January 1, 2002, a
1 30 tax credit shall be allowed against the taxes imposed in
1 31 chapter 422, divisions II, III, and V, and in chapter 432, for
1 32 a portion of the taxpayer's equity investment, as provided in
1 33 subsection 2, in a qualified business or a community-based
1 34 seed capital fund. A tax credit shall be allowed only for an
1 35 investment made in the form of cash to purchase equity in a
2 1 qualifying business or in a community-based seed capital fund.
2 2 An individual may claim the credit of a partnership, limited
2 3 liability company, S corporation, estate, or trust electing to
2 4 have income taxed directly to the individual. The amount
2 5 claimed by the individual shall be based upon the pro rata
2 6 share of the individual's earnings from the partnership,
2 7 limited liability company, S corporation, estate, or trust. A
2 8 taxpayer shall not claim the tax credit prior to the third tax
2 9 year following the tax year in which the investment is made.
2 10 Any tax credit in excess of the taxpayer's liability for the
2 11 tax year may be credited to the tax liability for the
2 12 following five years or until depleted, whichever is earlier.
2 13 A tax credit shall not be carried back to a tax year prior to
2 14 the tax year in which the taxpayer redeems the tax credit.
2 15 2. A tax credit shall equal twenty percent of the
2 16 taxpayer's equity investment. The maximum amount of a tax
2 17 credit for an investment by an investor in any one qualifying
2 18 business shall be fifty thousand dollars. Each year, an
2 19 investor and all affiliates of the investor shall not claim
2 20 tax credits under this section for more than five different
2 21 investments in five different qualifying businesses.

2 22 3. An investment shall be deemed to have been made on the
2 23 same date as the date of acquisition of the equity interest as
2 24 determined by the Internal Revenue Code. An investment made
2 25 prior to January 1, 2002, shall not qualify for a tax credit
2 26 under this division.

2 27 4. The aggregate amount of tax credits issued pursuant to
2 28 this division shall not exceed a total of ten million dollars.
2 29 The total amount of tax credits issued during the fiscal year
2 30 beginning July 1, 2002, shall not exceed three million
2 31 dollars. The total amount of tax credits issued during the
2 32 fiscal year beginning July 1, 2003, shall not exceed three
2 33 million dollars. The total amount of tax credits issued
2 34 during the fiscal year beginning July 1, 2004, shall not
2 35 exceed four million dollars.

3 1 5. A tax credit shall not be redeemed during any tax year
3 2 beginning prior to January 1, 2005. A tax credit shall not be
3 3 transferable to any other taxpayer.

3 4 6. The board shall develop a system for registration and
3 5 authorization of tax credits authorized pursuant to this
3 6 division and shall control distribution of all tax credits
3 7 distributed to investors pursuant to this division. The board
3 8 shall develop rules for the qualification and administration
3 9 of qualifying businesses and community-based seed capital
3 10 funds. The department of revenue and finance shall adopt
3 11 these criteria as administrative rules and any other rules
3 12 pursuant to chapter 17A necessary for the administration of
3 13 this division.

3 14 Sec. 4. NEW SECTION. 15E.44 QUALIFYING BUSINESSES.

3 15 1. In order for an equity investment to qualify for a tax
3 16 credit, the business in which the equity investment is made
3 17 shall within one hundred twenty days of the date of the first
3 18 investment notify the board of the names, addresses, taxpayer
3 19 identification numbers, shares issued, consideration paid for
3 20 the shares, and the amount of any tax credits, of all
3 21 shareholders who may initially qualify for the tax credits,
3 22 and the earliest year in which the tax credits may be
3 23 redeemed. The list shall be amended as new equity investments
3 24 are sold or as any information on the list shall change.

3 25 2. In order to be a qualifying business, a business must
3 26 meet all of the following criteria:

3 27 a. The principal business operations of the business are
3 28 located in this state.

3 29 b. The business has been in operation for three years or
3 30 less.

3 31 c. The business has an owner who has successfully
3 32 completed a recognized entrepreneurial venture development
3 33 curriculum; has three years of relevant business experience;
3 34 has a four-year college degree in business management,
3 35 business administration, or a related field; or has other
4 1 training or experience as the board may specify by rule or
4 2 order as sufficient to increase the probability of success of
4 3 the qualifying business.

4 4 d. The business is not a business engaged primarily in
4 5 retail sales, real estate, or the provision of health care or
4 6 other professional services.

4 7 e. The business shall not have a net worth that exceeds
4 8 three million dollars.

4 9 f. The business shall have secured, within twenty-four
4 10 months following the first date on which the equity
4 11 investments qualifying for tax credits have been made, total
4 12 equity or near equity financing equal to at least two hundred
4 13 fifty thousand dollars.

4 14 3. A qualifying business shall have the burden of proof to
4 15 demonstrate to the board its qualifications under this
4 16 section, and shall have the obligation to notify the board in
4 17 a timely manner of any changes in the qualifications of the
4 18 business or in the eligibility of investors to redeem the

4 19 investment tax credits in any tax year.

4 20 4. After verifying the eligibility of a qualifying
4 21 business, the board shall issue a tax credit certificate to be
4 22 attached to the equity investor's tax return. The tax credit
4 23 certificate shall contain the taxpayer's name, address, tax
4 24 identification number, the amount of credit, the name of the
4 25 qualifying business, and other information required by the
4 26 department of revenue and finance. The tax credit
4 27 certificate, unless rescinded by the board, shall be accepted
4 28 by the department of revenue and finance as payment for taxes
4 29 imposed pursuant to chapter 422, divisions II, III, and V, and
4 30 chapter 432, subject to any conditions or restrictions placed
4 31 by the board upon the face of the tax credit certificate and
4 32 subject to the limitations of section 15E.43.

4 33 Sec. 5. NEW SECTION. 15E.45 COMMUNITY-BASED SEED CAPITAL
4 34 FUNDS.

4 35 1. An investment in a community seed capital fund shall
5 1 qualify for a tax credit under section 15E.43 provided that
5 2 all requirements of sections 15E.43, 15E.44, and this section
5 3 are met.

5 4 2. In order to be a community-based seed capital fund
5 5 qualifying under this section, a community-based seed capital
5 6 fund must meet all of the following criteria:

5 7 a. The fund is a limited partnership or limited liability
5 8 company.

5 9 b. The fund has, on or after January 1, 2002, a total of
5 10 both capital commitments from investors and investments in
5 11 qualifying businesses of at least one million dollars, but not
5 12 more than three million dollars.

5 13 c. The fund has no fewer than ten individual investors who
5 14 are not affiliates, with no single investor and affiliates of
5 15 that investor together owning a total of more than twenty-five
5 16 percent of the ownership interests outstanding in the fund.

5 17 3. In order for an investment in a community-based seed
5 18 capital fund to qualify for a tax credit, the community-based
5 19 seed capital fund in which the investment is made shall within
5 20 one hundred twenty days of the date of the first investment
5 21 notify the board of the names, addresses, taxpayer
5 22 identification numbers, equity interests issued, consideration
5 23 paid for the interests, and the amount of any tax credits, of
5 24 which all limited partners or members who may initially
5 25 qualify for the tax credits, and the earliest year in which
5 26 the tax credits may be redeemed. The list shall be amended as
5 27 new equity interests are sold or as any information on the
5 28 list shall change.

5 29 4. After verifying the eligibility of the community-based
5 30 seed capital fund, the board shall issue a tax credit
5 31 certificate to be attached to the taxpayer's tax return. The
5 32 tax credit certificate shall contain the taxpayer's name,
5 33 address, tax identification number, the amount of the tax
5 34 credit, the name of the community-based seed capital fund, and
5 35 other information required by the department of revenue and
6 1 finance. The tax credit certificate, unless rescinded by the
6 2 board, shall be accepted by the department of revenue and
6 3 finance as payment for taxes imposed pursuant to chapter 422,
6 4 divisions II, III, and V, and chapter 432, subject to any
6 5 conditions or restrictions placed by the board on the face of
6 6 the tax credit certificate and subject to the limitations of
6 7 section 15E.43.

6 8 5. The manager of the community-based seed capital fund
6 9 shall have the burden of proof to demonstrate to the board the
6 10 community-based seed capital fund's qualifications under this
6 11 section, and shall have the obligation to notify the board in
6 12 a timely manner of any changes in the qualifications of the
6 13 community-based seed capital fund, in the qualifications of
6 14 any qualifying business in which the fund has invested, or in
6 15 the eligibility of limited partners or members to redeem the

6 16 investment tax credits in any year.

6 17 6. In the event that a community-based seed capital fund
6 18 fails to meet or maintain any requirement set forth in this
6 19 section, or in the event that the community-based seed capital
6 20 fund has not invested at least thirty-three percent of its
6 21 invested capital in no fewer than two separate qualifying
6 22 businesses, measured at the end of the thirty-sixth month
6 23 after commencing the fund's investing activities, the board
6 24 shall rescind any tax credit certificates issued to limited
6 25 partners or members and shall notify the department of revenue
6 26 and finance that it has done so, and the tax credit
6 27 certificates shall be null and void. However, a community-
6 28 based seed capital fund may apply to the board for a one-year
6 29 waiver from the requirements of this subsection.

6 30 7. A community-based seed capital fund, any of whose
6 31 investors receive a tax credit certificate under this section
6 32 on account of their investment in that fund, shall not receive
6 33 a tax credit for any investment which would otherwise qualify
6 34 for a tax credit in a qualifying business.

6 35 Sec. 6. NEW SECTION. 422.11F INVESTMENT TAX CREDITS.

7 1 The taxes imposed under this division, less the credits
7 2 allowed under sections 422.12 and 422.12B, shall be reduced by
7 3 an investment tax credit authorized pursuant to section
7 4 15E.43.

7 5 Sec. 7. Section [422.33](#), Code Supplement 2001, is amended
7 6 by adding the following new subsection:

7 7 NEW SUBSECTION. 12. The taxes imposed under this division
7 8 shall be reduced by an investment tax credit authorized
7 9 pursuant to section 15E.43.

7 10 Sec. 8. Section [422.60](#), Code 2001, is amended by adding
7 11 the following new subsection:

7 12 NEW SUBSECTION. 4. The taxes imposed under this division
7 13 shall be reduced by an investment tax credit authorized
7 14 pursuant to section 15E.43.

7 15 Sec. 9. NEW SECTION. 432.12A INVESTMENT TAX CREDITS.

7 16 The tax imposed under this chapter shall be reduced by an
7 17 investment tax credit authorized pursuant to section 15E.43.

7 18 Sec. 10. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE
7 19 PROVISIONS. This Act, being deemed of immediate importance,
7 20 takes effect upon enactment and applies retroactively to
7 21 January 1, 2002, for tax years beginning on or after that
7 22 date.

7 23 Sec. 11. 2002 Iowa Acts, House File 2078, is amended by
7 24 adding the following new section:

7 25 SEC. 12. EFFECTIVE DATE. Sections 1 through 9 of this
7 26 Act, being deemed of immediate importance, take effect upon
7 27 the enactment of the Act creating a tax credit for investments
7 28 in qualifying businesses and community-based seed capital
7 29 funds as enacted by the Seventy-ninth General Assembly, 2002
7 30 regular session.

7 31 EXPLANATION

7 32 This bill creates a tax credit for investments in
7 33 qualifying businesses and community-based seed capital funds.

7 34 The bill provides that, for tax years beginning on or after
7 35 January 1, 2002, a tax credit shall be allowed against
8 1 personal and corporate income tax, the franchise tax for
8 2 financial institutions, and the insurance premium tax. The
8 3 bill provides that the tax credit shall be for a portion of
8 4 the taxpayer's equity investment in a qualified business or a
8 5 community-based seed capital fund. The bill provides that a
8 6 tax credit shall be allowed only for an investment made in a
8 7 form of cash to purchase equity in a qualifying business or in
8 8 a community-based seed capital fund. The bill provides that a
8 9 taxpayer shall not claim the tax credit prior to the third tax
8 10 year following the tax year in which the investment is made.
8 11 The bill provides that any tax credit in excess of the
8 12 taxpayer's liability for the tax year may be credited to the

8 13 tax liability for the following five years or until depleted,
8 14 whichever is earlier. The bill provides that a tax credit
8 15 shall not be carried back to a tax year prior to the tax year
8 16 in which the taxpayer redeems the tax credit. The bill
8 17 provides that a tax credit shall equal 20 percent of the
8 18 taxpayer's equity investment. The bill provides that the
8 19 maximum amount of a tax credit for an investment by a taxpayer
8 20 in any one qualifying business shall be \$50,000. The bill
8 21 provides that, each year, an investor and all affiliates of
8 22 the investor shall not claim tax credits for more than five
8 23 different investments in five different qualifying businesses.
8 24 The bill provides that an investment shall be deemed to have
8 25 been made on the same date as the date of acquisition of the
8 26 equity interest, as determined by the Internal Revenue Code.
8 27 The bill provides that the aggregate amount of tax credits
8 28 issued shall not exceed a total of \$10 million. The bill
8 29 provides that the total amount of tax credits issued shall not
8 30 exceed \$3 million for the fiscal year beginning July 1, 2002,
8 31 \$3 million for the fiscal year beginning July 1, 2003, and \$4
8 32 million for the fiscal year beginning July 1, 2004. The bill
8 33 provides that a tax credit shall not be redeemed during any
8 34 tax year beginning prior to January 1, 2005, and shall not be
8 35 transferable.

9 1 The bill provides that the Iowa capital investment board,
9 2 if created by House File 2078 as enacted by the Seventy-ninth
9 3 General Assembly, shall develop a system for registration and
9 4 authorization of tax credits authorized pursuant to this bill
9 5 and shall control distribution of all tax credits distributed
9 6 to investors pursuant to this bill.

9 7 The bill provides that, in order for an equity investment
9 8 to qualify for a tax credit, the business in which the equity
9 9 investment is made shall within 120 days of the date of the
9 10 first investment notify the board of the names, addresses,
9 11 taxpayer identification numbers, shares issued, consideration
9 12 paid for the shares, and the amount of any tax credits, of all
9 13 shareholders who may initially qualify for the tax credits,
9 14 and the earliest year in which the tax credits may be
9 15 redeemed. The bill provides certain criteria that a
9 16 qualifying business must meet relating to location of the
9 17 business, the duration of the business, the experience of the
9 18 business owner, the type of business, the net worth of the
9 19 business, and the equity investments in the business.

9 20 The bill provides that a qualifying business shall have the
9 21 burden of proof to demonstrate to the board its
9 22 qualifications, and shall have the obligation to notify the
9 23 board in a timely manner of any changes in the qualifications
9 24 or in the eligibility of investors to redeem the investment
9 25 tax credits in any tax year. The bill provides that after
9 26 verifying the eligibility of a qualifying business, the board
9 27 shall issue a tax credit certificate to be attached to the
9 28 equity investor's tax return.

9 29 The bill provides that an investment in a community-based
9 30 seed capital fund shall qualify for a tax credit provided that
9 31 all requirements of the bill are met. The bill provides that
9 32 in order to be a community-based seed capital fund qualifying
9 33 under this section, a community-based seed capital fund must
9 34 be a limited partnership or limited liability company; must
9 35 have, on or after January 1, 2002, a total of both capital
10 1 commitments from investors and investments in qualifying
10 2 businesses of at least \$1 million, but not more than \$3
10 3 million; and must have no fewer than 10 individual investors
10 4 who are not affiliates, with no single investor and affiliates
10 5 of that investor together owning a total of more than 25
10 6 percent of the ownership interests outstanding in the fund.

10 7 The bill provides that in order for an investment in a
10 8 community-based seed capital fund to qualify for a tax credit,
10 9 the community-based seed capital fund shall within 120 days of

10 10 the date of the first investment notify the board of the
10 11 names, addresses, taxpayer identification numbers, equity
10 12 interests issued, consideration paid for the interests, and
10 13 the amount of any tax credits, of which all limited partners
10 14 or members who may initially qualify for the tax credits, and
10 15 the earliest year in which the tax credits may be redeemed.
10 16 The bill provides that after verifying the eligibility of the
10 17 community-based seed capital fund, the board shall issue a tax
10 18 credit certificate to be attached to the taxpayer's tax
10 19 return.

10 20 The bill provides that the manager of the community-based
10 21 seed capital fund shall have the burden of proof to
10 22 demonstrate to the board the community-based seed capital
10 23 fund's qualifications, and shall have the obligation to notify
10 24 the board in a timely manner of any changes in the
10 25 qualifications of the community-based seed capital fund, in
10 26 the qualifications of any qualifying business in which the
10 27 fund has invested, or in the eligibility of limited partners
10 28 or members to redeem the investment tax credits in any year.
10 29 The bill provides that in the event that a community-based
10 30 seed capital fund fails to meet or maintain any requirement
10 31 set forth in the bill, or in the event that the community-
10 32 based seed capital fund has not invested at least 33 percent
10 33 of its invested capital in no fewer than two separate
10 34 qualifying businesses, measured at the end of the thirty-sixth
10 35 month after commencing the fund's investing activities, the
11 1 board shall rescind any tax credit certificates issued to
11 2 limited partners or members and shall notify the department of
11 3 revenue and finance that it has done so, and the tax credit
11 4 certificates shall be null and void. The bill allows a
11 5 community-based seed capital fund to apply to the board for a
11 6 one-year waiver regarding the investment requirements.

11 7 The bill provides that a community-based seed capital fund,
11 8 any of whose investors receive a tax credit certificate under
11 9 the bill on account of their investment in that fund, shall
11 10 not receive a tax credit for any investment which would
11 11 otherwise qualify for a tax credit in a qualifying business.

11 12 The bill takes effect upon enactment and applies
11 13 retroactively to January 1, 2002, for tax years beginning on
11 14 or after that date.

11 15 The bill amends 2002 Iowa Acts, House File 2078, to take
11 16 effect upon the enactment of this bill.

11 17 LSB 5257SC 79

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