

APR 15 2005
WAYS & MEANS CALENDAR

HOUSE FILE 860
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 286)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing a tax credit certificate transfer program.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 860

1 Section 1. NEW SECTION. 421.58 SALE OR TRANSFER OF NET
2 OPERATING LOSS CARRYOVER.

3 1. As used in this section, unless the context otherwise
4 requires:

5 a. "Biotechnology enterprise" means the same as defined in
6 section 15E.202.

7 b. "Department" means the department of revenue.

8 c. "Net operating loss" means the same as defined in
9 section 172 of the Internal Revenue Code. "Net operating
10 loss" may include up to a maximum salary allocation of one
11 hundred thirty percent of the average annual county wage.

12 d. "Targeted industry business" means the same as defined
13 in section 15E.223.

14 2. The department shall establish and administer a tax
15 credit certificate transfer program for purposes of allowing a
16 biotechnology enterprise or a targeted industry business with
17 twenty or fewer employees to transfer a tax credit certificate
18 to another taxpayer in return for private financial assistance
19 for a net operating loss carryover.

20 3. A biotechnology enterprise or a targeted industry
21 business with twenty or fewer employees that has a net
22 operating loss carryover in a single tax year may apply to the
23 department for the issuance of a tax credit certificate in the
24 amount of the loss carryover for sale under this section to a
25 qualifying, nonaffiliated business. Upon the department's
26 approval of an application, a tax credit certificate shall be
27 issued containing the taxpayer's name, address, tax
28 identification number, the amount of the tax credit, and other
29 information required by the department. The proceeds from the
30 sale of a tax credit shall be used by the biotechnology
31 enterprise or targeted industry business for expenses
32 including, but not limited to, the expenses of fixed assets
33 such as the acquisition, development, and construction of real
34 property, materials, salaries, and research and development
35 expenditures.

1 4. A taxpayer willing to enter into an agreement to
2 receive a tax credit certificate from a biotechnology
3 enterprise or a targeted industry business in exchange for
4 providing private financial assistance shall submit an
5 application to the department. The application to receive a
6 tax credit certificate shall identify the amount of private
7 financial assistance that the applicant is willing to provide
8 in exchange for a tax credit certificate.

9 5. A taxpayer willing to exchange private financial
10 assistance to a biotechnology enterprise or targeted industry
11 business may use the amount of the tax credit transferred
12 against the taxes imposed under chapter 422, division II, III,
13 or V, or chapter 432 for any tax year the original transferor
14 could have claimed the net operating loss carryover. Any
15 consideration received for the transfer of the tax credit
16 shall not be included as income under chapter 422, division
17 II, III, or V. Any consideration paid for the transfer of a
18 tax credit under this section shall not be deducted from
19 income under chapter 422, division II, III, or V.

20 6. The department shall adopt rules pursuant to chapter
21 17A to establish the procedures for the application, review,
22 selection, issuance, and transfer of tax credit certificates
23 and to provide for the method to be used to determine for
24 which fiscal year the tax credits are available.

25 7. The department or a designee shall match applications
26 submitted under this section in a manner that can best
27 stimulate and encourage the extension of private financial
28 assistance to biotechnology enterprises or targeted industry
29 businesses in the state. As part of approving an application,
30 the department shall require all of the following from
31 applicants:

32 a. A written agreement concerning the terms and conditions
33 of providing private financial assistance in exchange for a
34 tax credit certificate issued pursuant to this section.

35 b. Private financial assistance supplied by a taxpayer

1 must be equal to at least seventy-five percent of the value of
2 the tax credit certificate issued pursuant to this section.

3 c. Private financial assistance received under this
4 section shall be used for the operation or expansion of a
5 biotechnology enterprise or a targeted industry business.

6 8. The total amount of tax credits that may be approved
7 for a fiscal year under this section shall not exceed one
8 million five hundred thousand dollars. A biotechnology
9 enterprise or a targeted industry business shall not receive
10 more than one hundred fifty thousand dollars in any fiscal
11 year of private financial assistance under the program. Tax
12 credits issued under this section shall not be prorated.

13 9. A biotechnology enterprise or a targeted industry
14 business receiving private financial assistance under the
15 program shall not receive a wage-benefits tax credit under
16 section 15H.2, if enacted.

17 EXPLANATION

18 This bill establishes a tax credit certificate transfer
19 program.

20 The bill requires the department of revenue to establish
21 and administer a tax credit certificate transfer program for
22 purposes of allowing a biotechnology enterprise or a targeted
23 industry business with 20 or fewer employees to transfer a tax
24 credit certificate to another taxpayer in return for private
25 financial assistance for a net operating loss carryover.

26 The bill allows a biotechnology enterprise or a targeted
27 industry business with 20 or fewer employees that has a net
28 operating loss carryover in a single tax year to apply to the
29 department for the issuance of a tax credit certificate in the
30 amount of the loss carryover for sale under the bill to a
31 qualifying, nonaffiliated business. The bill provides that
32 private financial assistance is to be used for expenses
33 including, but not limited to, the expenses of fixed assets
34 such as the acquisition, development, and construction of real
35 property, materials, salaries, and research and development

1 expenditures.

2 The bill requires that a taxpayer willing to provide
3 private financial assistance shall submit an application to
4 the department identifying the amount of private financial
5 assistance that the applicant is willing to provide.

6 The bill provides that tax credits transferred under the
7 program may be used against personal and corporate income
8 taxes, against the franchise tax for financial institutions,
9 and against the insurance premium tax. The bill provides that
10 any consideration received for the transfer of a tax credit
11 shall not be considered income and any consideration paid for
12 the transfer shall not be deducted from income.

13 The bill requires the department to match applications
14 submitted under the program in a manner that can best
15 stimulate and encourage the extension of private financial
16 assistance in the state.

17 The bill provides that the total amount of tax credits that
18 may be approved for transfer under the program for a fiscal
19 year shall not exceed \$1.5 million and a biotechnology
20 enterprise or a targeted industry business shall not receive
21 more than \$150,000 in any fiscal year of private financial
22 assistance under the program.

23 The bill prohibits a biotechnology enterprise or a targeted
24 industry business that receives private financial assistance
25 under the program from receiving a wage-benefits tax credit
26 under Code section 15H.2, if enacted.

HOUSE FILE 860

H-1511

1 Amend House File 860 as follows:

2 1. Page 2, line 19, by inserting after the word
3 "V." the following: "Any tax credit in excess of the
4 tax liability for the tax year may be credited to the
5 tax liability for the following seven years or until
6 depleted, whichever occurs first."

By SODERBERG of Plymouth.

H-1511 FILED APRIL 26, 2005

ADOPTED

Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 860 - Biotechnology Tax Credit (LSB 1741 YC)

Analyst: Russell Trimble (Phone: (515) 281-4613) (russ.trimble@legis.state.ia.us)

Fiscal Note Version - New

Description

House File 860 allows a biotechnology or targeted industry business that has 20 or fewer employees, and has a net operating loss carryover in a single tax year, to transfer or sell up to \$150,000 per business per year in unused tax credits in exchange for private financial assistance. The aggregate amount of tax credits that may be sold or transferred in a single fiscal year is capped at \$1.5 million.

Assumptions

1. From FY 2003 through FY 2005 to date, the Department of Economic Development has awarded at least 14.0% of the total tax credits available through the Enterprise Zone Program, the New Jobs and Income Program, and New Capital Investment Program to all biotechnology or targeted industry businesses regardless of their size or earnings. This would amount to approximately \$927,000 in tax credits awarded each month in FY 2006.
2. Approximately 75.0% of tax incentive awards are made up of non-refundable investment (income) tax credits. Therefore, in FY 2006, \$695,000 in investment tax credits will be awarded each month to all biotechnology or targeted industry businesses ($\$927,000 \times 0.75$). Annualized, this equates to \$8.3 million for the fiscal year.
3. Approximately 50.0% of the tax credits awarded each year are not utilized. Therefore, approximately \$4.2 million in tax credits awarded in FY 2006 to all biotechnology or targeted industry businesses would remain unused.
4. Although the percentage of tax credits awarded to, and used by biotechnology or targeted industry businesses with 20 or fewer employees, and that have an operating loss carryover in a single tax year, is unknown, the Department of Economic Development anticipates that the \$1.5 million cap will be reached each fiscal year with 100.0% utilization of the tax credits awarded to these businesses.
5. Only projects beginning on or after July 1, 2005, will be eligible to take advantage of the provisions of House File 860. Tax credits awarded will be first utilized the year after they are awarded.
6. The Department of Economic Development will incur annual administrative costs of approximately \$48,000 (including benefits) and 1.0 FTE position for an Administrative Assistant III.

Fiscal Impact

House File 860 will reduce General Fund revenues by approximately \$1.5 million annually starting in FY 2007.

In addition, House File 860 would result in a General Fund cost of \$48,000 and 1.0 FTE position.

Sources

Department of Economic Development

/s/ Holly M. Lyons

April 18, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

HOUSE FILE 860
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 286)

(As Amended and Passed by the House April 26, 2005)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing a tax credit certificate transfer program.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

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2 OPERATING LOSS CARRYOVER.

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7 b. "Department" means the department of revenue.

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9 section 172 of the Internal Revenue Code. "Net operating
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21 business with twenty or fewer employees that has a net
22 operating loss carryover in a single tax year may apply to the
23 department for the issuance of a tax credit certificate in the
24 amount of the loss carryover for sale under this section to a
25 qualifying, nonaffiliated business. Upon the department's
26 approval of an application, a tax credit certificate shall be
27 issued containing the taxpayer's name, address, tax
28 identification number, the amount of the tax credit, and other
29 information required by the department. The proceeds from the
30 sale of a tax credit shall be used by the biotechnology
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35 expenditures.

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6 tax credit certificate shall identify the amount of private
7 financial assistance that the applicant is willing to provide
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9 5. A taxpayer willing to exchange private financial
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11 business may use the amount of the tax credit transferred
12 against the taxes imposed under chapter 422, division II, III,
13 or V, or chapter 432 for any tax year the original transferor
14 could have claimed the net operating loss carryover. Any
15 consideration received for the transfer of the tax credit
16 shall not be included as income under chapter 422, division
17 II, III, or V. Any consideration paid for the transfer of a
18 tax credit under this section shall not be deducted from
19 income under chapter 422, division II, III, or V. Any tax
20 credit in excess of the tax liability for the tax year may be
21 credited to the tax liability for the following seven years or
22 until depleted, whichever occurs first.

23 6. The department shall adopt rules pursuant to chapter
24 17A to establish the procedures for the application, review,
25 selection, issuance, and transfer of tax credit certificates
26 and to provide for the method to be used to determine for
27 which fiscal year the tax credits are available.

28 7. The department or a designee shall match applications
29 submitted under this section in a manner that can best
30 stimulate and encourage the extension of private financial
31 assistance to biotechnology enterprises or targeted industry
32 businesses in the state. As part of approving an application,
33 the department shall require all of the following from
34 applicants:

35 a. A written agreement concerning the terms and conditions

1 of providing private financial assistance in exchange for a
2 tax credit certificate issued pursuant to this section.

3 b. Private financial assistance supplied by a taxpayer
4 must be equal to at least seventy-five percent of the value of
5 the tax credit certificate issued pursuant to this section.

6 c. Private financial assistance received under this
7 section shall be used for the operation or expansion of a
8 biotechnology enterprise or a targeted industry business.

9 8. The total amount of tax credits that may be approved
10 for a fiscal year under this section shall not exceed one
11 million five hundred thousand dollars. A biotechnology
12 enterprise or a targeted industry business shall not receive
13 more than one hundred fifty thousand dollars in any fiscal
14 year of private financial assistance under the program. Tax
15 credits issued under this section shall not be prorated.

16 9. A biotechnology enterprise or a targeted industry
17 business receiving private financial assistance under the
18 program shall not receive a wage-benefits tax credit under
19 section 15H.2, if enacted.

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Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 860 - Biotechnology Tax Credit (LSB 1741 HV.1)
Analyst: Russell Trimble (Phone: (515) 281-4613) (russ.trimble@legis.state.ia.us)
Fiscal Note Version - Revised

Description

House File 860 allows a biotechnology or targeted industry business that has 20 or fewer employees, and has a net operating loss carryover in a single tax year, to transfer or sell up to \$150,000 per business per year in unused tax credits in exchange for private financial assistance. The aggregate amount of tax credits that may be sold or transferred in a single fiscal year is capped at \$1.5 million.

Assumptions

1. From FY 2003 through FY 2005 to date, the Department of Economic Development has awarded at least 14.0% of the total tax credits available through the Enterprise Zone Program, the New Jobs and Income Program, and New Capital Investment Program to all biotechnology or targeted industry businesses regardless of their size or earnings. This would amount to approximately \$927,000 in tax credits awarded each month in FY 2006.
2. Approximately 75.0% of tax incentive awards are made up of non-refundable investment (income) tax credits. Therefore, in FY 2006, \$695,000 in investment tax credits will be awarded each month to all biotechnology or targeted industry businesses ($\$927,000 \times 0.75$). Annualized, this equates to \$8.3 million for the fiscal year.
3. Approximately 50.0% of the tax credits awarded each year are not utilized. Therefore, approximately \$4.2 million in tax credits awarded in FY 2006 to all biotechnology or targeted industry businesses would remain unused.
4. Although the percentage of tax credits awarded to, and used by biotechnology or targeted industry businesses with 20 or fewer employees, and that have an operating loss carryover in a single tax year, is unknown, the Department of Economic Development anticipates that the \$1.5 million cap will be reached each fiscal year with 100.0% utilization of the tax credits awarded to these businesses.
5. Only projects beginning on or after July 1, 2005, will be eligible to take advantage of the provisions of House File 860. Tax credits awarded will be first utilized the year after they are awarded.
6. The Department of Revenue will incur annual administrative costs of approximately \$47,000 (including benefits) and 1.0 FTE position for a Revenue Examiner III starting in FY 2006.

Fiscal Impact

House File 860 will reduce General Fund revenues by approximately \$1.5 million annually starting in FY 2007.

In addition, HF 860 would result in a General Fund cost of \$47,000 and 1.0 FTE position annually starting in FY 2006.

Sources

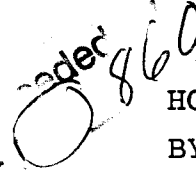
Department of Economic Development
Department of Revenue

/s/ Holly M. Lyons

April 27, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

Soderberg, Ch.
Struyk
Reasoner

SUB
SF 

HSB 286
WAYS AND MEANS

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON VAN FOSSEN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing an economic development tax credit
2 certificate transfer program.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 15E.321 ECONOMIC DEVELOPMENT TAX
2 CREDIT CERTIFICATE TRANSFER PROGRAM.

3 1. The department shall establish and administer an
4 economic development tax credit certificate transfer program
5 for purposes of allowing a tax credit recipient that is a
6 biotechnology or emerging technology business to transfer
7 unused or partially used tax credits to another taxpayer in
8 return for private financial assistance.

9 2. A biotechnology or emerging technology business that
10 has received a tax credit and cannot apply part or all of the
11 tax credit due to limited tax liability may apply to the
12 department for the transfer of the tax credit. In addition to
13 any information required by the department, the applicant
14 shall submit, as part of the application, a copy of the
15 certificate issued for the tax credit if such a certificate
16 has been issued.

17 3. A taxpayer willing to exchange private financial
18 assistance for an unused or partially used tax credit may
19 apply to the department to receive a tax credit. In addition
20 to any information required by the department, a taxpayer
21 submitting an application to receive a tax credit under this
22 section shall identify the amount of private financial
23 assistance that the taxpayer is willing to provide in exchange
24 for a tax credit.

25 4. The department shall match applications submitted under
26 this section in a manner that can best stimulate and encourage
27 the extension of private financial assistance to biotechnology
28 and emerging technology businesses in the state. As part of
29 approving an application, the department shall require all of
30 the following:

31 a. Approved applicants must enter into a written agreement
32 concerning the terms and conditions of providing private
33 financial assistance in exchange for an unused or partially
34 used tax credit.

35 b. Private financial assistance supplied by a taxpayer

1 must be equal to at least seventy-five percent of the value of
2 the unused or partially used tax credit being transferred.

3 c. Private financial assistance received under this
4 section shall be used for the operation or expansion of a
5 biotechnology or emerging technology business.

6 d. If a tax credit certificate has been issued for the tax
7 credit that is being transferred, the certificate shall be
8 surrendered to the department.

9 5. The department of economic development shall issue a
10 tax credit certificate to a taxpayer providing private
11 financial assistance under this section in an amount equal to
12 an unused or partially used tax credit being transferred. The
13 taxpayer issued a tax credit certificate by the department of
14 economic development shall not claim the transferred tax
15 credit unless the tax credit certificate is attached to the
16 taxpayer's tax return for the tax year for which the tax
17 credit is claimed. A tax credit certificate shall contain the
18 taxpayer's name, address, tax identification number, the
19 amount of the tax credit, and other information required by
20 the department of revenue.

21

EXPLANATION

22 This bill establishes an economic development tax credit
23 certificate transfer program.

24 The bill requires the department of economic development to
25 establish and administer an economic development tax credit
26 certificate transfer program for purposes of allowing a tax
27 credit recipient that is a biotechnology or emerging
28 technology business to transfer unused or partially used tax
29 credits to another taxpayer in return for private financial
30 assistance.

31 The bill allows a biotechnology or emerging technology
32 business that has received a tax credit and cannot apply part
33 or all of the tax credit due to limited tax liability to apply
34 to the department for the transfer of the tax credit. The
35 bill allows a taxpayer willing to exchange private financial

1 assistance for an unused or partially used tax credit to apply
2 to the department to receive a tax credit.

3 The bill requires the department to match applications
4 submitted in a manner that can best stimulate and encourage
5 the extension of private financial assistance to biotechnology
6 and emerging technology businesses in the state.

7 The bill provides that, as part of approving an
8 application, the department shall require approved applicants
9 to enter into a written agreement concerning the terms and
10 conditions of providing private financial assistance in
11 exchange for an unused or partially used tax credit. Private
12 financial assistance supplied by a taxpayer must be equal to
13 at least 75 percent of the value of the unused or partially
14 used tax credit being transferred. The bill provides that
15 private financial assistance must be used for the operation or
16 expansion of a biotechnology or emerging technology business.

17 The bill requires the department to issue a tax credit
18 certificate to a taxpayer providing private financial
19 assistance in an amount equal to an unused or partially used
20 tax credit being transferred. The bill provides that a
21 taxpayer receiving the tax credit certificate under the
22 program shall not claim the transferred tax credit unless the
23 tax credit certificate is attached to the taxpayer's tax
24 return for the tax year for which the tax credit is claimed.

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