

House File 246 - Introduced

HOUSE FILE _____
BY WISE

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:
3 TLSB 2053HH 82
4 tm/gg/14

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1 1 Section 1. NEW SECTION. 421.58 SALE OR TRANSFER OF NET
1 2 OPERATING LOSS CARRYOVER.
1 3 1. As used in this section, unless the context otherwise
1 4 requires:
1 5 a. "Biotechnology enterprise" means the same as defined in
1 6 section 15E.202.
1 7 b. "Department" means the department of revenue.
1 8 c. "Net operating loss" means the same as defined in
1 9 section 172 of the Internal Revenue Code. "Net operating
1 10 loss" may include up to a maximum salary allocation of one
1 11 hundred thirty percent of the average annual county wage.
1 12 d. "Targeted industry business" means the same as defined
1 13 in section 15E.223.
1 14 2. The department shall establish and administer a tax
1 15 credit certificate transfer program for purposes of allowing a
1 16 biotechnology enterprise or a targeted industry business with
1 17 twenty or fewer employees to transfer a tax credit certificate
1 18 to another taxpayer in return for private financial assistance
1 19 for a net operating loss carryover.
1 20 3. A biotechnology enterprise or a targeted industry
1 21 business with twenty or fewer employees that has a net
1 22 operating loss carryover in a single tax year may apply to the
1 23 department for the issuance of a tax credit certificate in the
1 24 amount of the loss carryover for sale under this section to a
1 25 qualifying, nonaffiliated business. Upon the department's
1 26 approval of an application, a tax credit certificate shall be
1 27 issued containing the taxpayer's name, address, tax
1 28 identification number, the amount of the tax credit, and other
1 29 information required by the department. The proceeds from the
1 30 sale of a tax credit shall be used by the biotechnology
1 31 enterprise or targeted industry business for expenses
1 32 including but not limited to the expenses of fixed assets such
1 33 as the acquisition, development, and construction of real
1 34 property, materials, salaries, and research and development
1 35 expenditures.
2 1 4. A taxpayer willing to enter into an agreement to
2 2 receive a tax credit certificate from a biotechnology
2 3 enterprise or a targeted industry business in exchange for
2 4 providing private financial assistance shall submit an
2 5 application to the department. The application to receive a
2 6 tax credit certificate shall identify the amount of private
2 7 financial assistance that the applicant is willing to provide
2 8 in exchange for a tax credit certificate.
2 9 5. A taxpayer willing to provide private financial
2 10 assistance to a biotechnology enterprise or targeted industry
2 11 business in exchange for a tax credit certificate may use the
2 12 amount of the tax credit transferred against the taxes imposed
2 13 under chapter 422, division II, III, or V, or chapter 432 for
2 14 any tax year the original transferor could have claimed the
2 15 net operating loss carryover. Any consideration received for
2 16 the transfer of the tax credit shall not be included as income
2 17 under chapter 422, division II, III, or V. Any consideration
2 18 paid for the transfer of a tax credit under this section shall
2 19 not be deducted from income under chapter 422, division II,
2 20 III, or V. Any tax credit in excess of the tax liability for
2 21 the tax year may be credited to the tax liability for the

2 22 following seven years or until depleted, whichever occurs
2 23 first.

2 24 6. The department shall adopt rules pursuant to chapter
2 25 17A to establish the procedures for the application, review,
2 26 selection, issuance, and transfer of tax credit certificates
2 27 and to provide for the method to be used to determine for
2 28 which fiscal year the tax credits are available.

2 29 7. The department or a designee shall match applications
2 30 submitted under this section in a manner that can best
2 31 stimulate and encourage the extension of private financial
2 32 assistance to biotechnology enterprises or targeted industry
2 33 businesses in the state. As part of approving an application,
2 34 the department shall require all of the following from
2 35 applicants:

3 1 a. A written agreement concerning the terms and conditions
3 2 of providing private financial assistance in exchange for a
3 3 tax credit certificate issued pursuant to this section.

3 4 b. Private financial assistance supplied by a taxpayer
3 5 must be equal to at least seventy-five percent of the value of
3 6 the tax credit certificate issued pursuant to this section.

3 7 c. Private financial assistance received under this
3 8 section shall be used for the operation or expansion of a
3 9 biotechnology enterprise or a targeted industry business.

3 10 8. The total amount of tax credits that may be approved
3 11 for a fiscal year under this section shall not exceed five
3 12 million dollars. A biotechnology enterprise or a targeted
3 13 industry business shall not receive more than five hundred
3 14 thousand dollars in any fiscal year of private financial
3 15 assistance under the program. Tax credits issued under this
3 16 section shall not be prorated.

3 17 9. A biotechnology enterprise or a targeted industry
3 18 business receiving private financial assistance under the
3 19 program shall not receive a wage-benefits tax credit under
3 20 section 15I.2.

3 21 EXPLANATION

3 22 This bill establishes a tax credit certificate transfer
3 23 program.

3 24 The bill requires the department of revenue to establish
3 25 and administer a tax credit certificate transfer program for
3 26 purposes of allowing a biotechnology enterprise or a targeted
3 27 industry business with 20 or fewer employees to transfer a tax
3 28 credit certificate to another taxpayer in return for private
3 29 financial assistance for a net operating loss carryover.

3 30 The bill allows a biotechnology enterprise or a targeted
3 31 industry business with 20 or fewer employees that has a net
3 32 operating loss carryover in a single tax year to apply to the
3 33 department for the issuance of a tax credit certificate in the
3 34 amount of the loss carryover for sale under the bill to a
3 35 qualifying, nonaffiliated business. The bill provides that
4 1 private financial assistance is to be used for expenses
4 2 including but not limited to the expenses of fixed assets such
4 3 as the acquisition, development, and construction of real
4 4 property, materials, salaries, and research and development
4 5 expenditures.

4 6 The bill requires that a taxpayer willing to provide
4 7 private financial assistance shall submit an application to
4 8 the department identifying the amount of private financial
4 9 assistance that the applicant is willing to provide.

4 10 The bill provides that tax credits transferred under the
4 11 program may be used against personal and corporate income
4 12 taxes, against the franchise tax for financial institutions,
4 13 and against the insurance premium tax. The bill provides that
4 14 any consideration received for the transfer of a tax credit
4 15 shall not be considered income and any consideration paid for
4 16 the transfer shall not be deducted from income. The bill
4 17 allows any tax credit in excess of the tax liability for the
4 18 tax year to be credited to the tax liability for the following
4 19 seven years or until depleted, whichever occurs first.

4 20 The bill requires the department to match applications
4 21 submitted under the program in a manner that can best
4 22 stimulate and encourage the extension of private financial
4 23 assistance in the state.

4 24 The bill provides that the total amount of tax credits that
4 25 may be approved for transfer under the program for a fiscal
4 26 year shall not exceed \$5 million and a biotechnology
4 27 enterprise or a targeted industry business shall not receive
4 28 more than \$500,000 in any fiscal year of private financial
4 29 assistance under the program.

4 30 The bill prohibits a biotechnology enterprise or a targeted
4 31 industry business that receives private financial assistance
4 32 under the program from receiving a wage-benefits tax credit

4 33 under Code section 15I.2.
4 34 LSB 2053HH 82
4 35 tm:rj/gg/14.1