

# House File 809 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON ECONOMIC  
GROWTH

(SUCCESSOR TO HF 246)

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 and  
2 including a retroactive applicability provision.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 2053HV 82  
5 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 seventy-five or fewer employees to transfer a tax credit  
1 18 certificate to another taxpayer in return for private  
1 19 financial assistance for a net operating loss carryover.  
1 20 3. A biotechnology enterprise or a targeted industry  
1 21 business with seventy-five 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. For any tax year beginning on or after January 1, 2007,  
2 10 a taxpayer willing to provide private financial assistance to  
2 11 a biotechnology enterprise or targeted industry business in  
2 12 exchange for a tax credit certificate may use the amount of  
2 13 the tax credit transferred against the taxes imposed under  
2 14 chapter 422, division II, III, or V, or chapter 432 for any  
2 15 tax year the original transferor could have claimed the net  
2 16 operating loss carryover. Any consideration received for the  
2 17 transfer of the tax credit shall not be included as income

2 18 under chapter 422, division II, III, or V. Any consideration  
2 19 paid for the transfer of a tax credit under this section shall  
2 20 not be deducted from income under chapter 422, division II,  
2 21 III, or V. Any tax credit in excess of the tax liability for  
2 22 the tax year may be credited to the tax liability for the  
2 23 following seven years or until depleted, whichever occurs  
2 24 first.

2 25 6. The department shall adopt rules pursuant to chapter  
2 26 17A to establish the procedures for the application, review,  
2 27 selection, issuance, and transfer of tax credit certificates  
2 28 and to provide for the method to be used to determine for  
2 29 which fiscal year the tax credits are available.

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

3 1 applicants:

3 2 a. A written agreement concerning the terms and conditions  
3 3 of providing private financial assistance in exchange for a  
3 4 tax credit certificate issued pursuant to this section.

3 5 b. Private financial assistance supplied by a taxpayer  
3 6 must be equal to at least seventy-five percent of the value of  
3 7 the tax credit certificate issued pursuant to this section.

3 8 c. Private financial assistance received under this  
3 9 section shall be used for the operation or expansion of a  
3 10 biotechnology enterprise or a targeted industry business.

3 11 8. The total amount of tax credits that may be approved  
3 12 for a fiscal year under this section shall not exceed five  
3 13 million dollars. A biotechnology enterprise or a targeted  
3 14 industry business shall not receive more than five hundred  
3 15 thousand dollars in any fiscal year of private financial  
3 16 assistance under the program. Tax credits issued under this  
3 17 section shall not be prorated.

3 18 9. A biotechnology enterprise or a targeted industry  
3 19 business receiving private financial assistance under the  
3 20 program shall not receive a wage=benefits tax credit under  
3 21 section 15I.2.

3 22 Sec. 2. RETROACTIVE APPLICABILITY. This Act is  
3 23 retroactively applicable to January 1, 2007, and is applicable  
3 24 on and after that date.

#### 3 25 EXPLANATION

3 26 This bill establishes a tax credit certificate transfer  
3 27 program.

3 28 The bill requires the department of revenue to establish  
3 29 and administer a tax credit certificate transfer program for  
3 30 purposes of allowing a biotechnology enterprise or a targeted  
3 31 industry business with 75 or fewer employees to transfer a tax  
3 32 credit certificate to another taxpayer in return for private  
3 33 financial assistance for a net operating loss carryover.

3 34 The bill allows a biotechnology enterprise or a targeted  
3 35 industry business with 75 or fewer employees that has a net  
4 1 operating loss carryover in a single tax year to apply to the  
4 2 department for the issuance of a tax credit certificate in the  
4 3 amount of the loss carryover for sale under the bill to a  
4 4 qualifying, nonaffiliated business. The bill provides that  
4 5 private financial assistance is to be used for expenses  
4 6 including but not limited to the expenses of fixed assets such  
4 7 as the acquisition, development, and construction of real  
4 8 property, materials, salaries, and research and development  
4 9 expenditures.

4 10 The bill requires that a taxpayer willing to provide  
4 11 private financial assistance shall submit an application to  
4 12 the department identifying the amount of private financial  
4 13 assistance that the applicant is willing to provide.

4 14 The bill provides that, for any tax year beginning on or  
4 15 after January 1, 2007, tax credits transferred under the  
4 16 program may be used against personal and corporate income  
4 17 taxes, against the franchise tax for financial institutions,  
4 18 and against the insurance premium tax. The bill provides that  
4 19 any consideration received for the transfer of a tax credit  
4 20 shall not be considered income and any consideration paid for  
4 21 the transfer shall not be deducted from income. The bill  
4 22 allows any tax credit in excess of the tax liability for the  
4 23 tax year to be credited to the tax liability for the following  
4 24 seven years or until depleted, whichever occurs first.

4 25 The bill requires the department to match applications  
4 26 submitted under the program in a manner that can best  
4 27 stimulate and encourage the extension of private financial  
4 28 assistance in the state.

4 29 The bill provides that the total amount of tax credits that  
4 30 may be approved for transfer under the program for a fiscal  
4 31 year shall not exceed \$5 million and a biotechnology  
4 32 enterprise or a targeted industry business shall not receive  
4 33 more than \$500,000 in any fiscal year of private financial  
4 34 assistance under the program.

4 35 The bill prohibits a biotechnology enterprise or a targeted  
5 1 industry business that receives private financial assistance  
5 2 under the program from receiving a wage=benefits tax credit  
5 3 under Code section 15I.2.

5 4 The bill is retroactively applicable to January 1, 2007.

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5 6 tm:rj/gg/14