

# Senate File 483 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON WAYS AND MEANS  
(SUCCESSOR TO SSB 1316)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to state taxes by limiting tax credits available  
2 under certain economic development programs and agricultural  
3 assets transfer agreements, eliminating the carryback of net  
4 operating losses, modifying refund interest provisions, and  
5 including retroactive applicability date and other  
6 applicability date provisions.  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
8 TLSB 2703SV 83  
9 tw/sc/8

PAG LIN

1 1 DIVISION I  
1 2 TAX CREDIT LIMITS  
1 3 Section 1. NEW SECTION. 15.119 AGGREGATE TAX CREDIT  
1 4 LIMIT FOR CERTAIN ECONOMIC DEVELOPMENT PROGRAMS.  
1 5 1. Notwithstanding any provision to the contrary in  
1 6 sections 15.327 through 15.336, 15.393, section 15A.9,  
1 7 subsection 8, sections 15E.191 through 15E.197, and 422.11E,  
1 8 and section 422.33, subsection 9, the department shall not  
1 9 authorize an amount of tax credits for purposes specified in  
1 10 subsection 2 in excess of one hundred seventy-five million  
1 11 dollars in any fiscal year.  
1 12 2. The department, with the approval of the board, shall  
1 13 adopt by rule a procedure for allocating the aggregate tax  
1 14 credit limit established in this section among the following  
1 15 programs administered by the department:  
1 16 a. The high quality job creation program administered  
1 17 pursuant to sections 15.326 through 15.336.  
1 18 b. The film, television, and video project promotion  
1 19 program administered pursuant to sections 15.391 through  
1 20 15.393.  
1 21 c. The corporate tax research credit under the quality  
1 22 jobs enterprise zone program pursuant to section 15A.9,  
1 23 subsection 8.  
1 24 d. The enterprise zones program administered pursuant to  
1 25 sections 15E.191 through 15E.197.  
1 26 e. The assistive device tax credit program administered  
1 27 pursuant to section 422.11E and section 422.33, subsection 9.  
1 28 3. The department shall submit to the department of  
1 29 revenue on or before August 15 of each year a report on the  
1 30 tax credits allocated pursuant to this section and the tax  
1 31 credits awarded under each of the programs described in  
1 32 subsection 2.  
1 33 Sec. 2. Section 175.37, Code 2009, is amended by adding  
1 34 the following new subsection:  
1 35 NEW SUBSECTION. 10. The amount of tax credit certificates  
2 1 that may be issued pursuant to this section shall not exceed  
2 2 three million dollars in any fiscal year. The authority shall  
2 3 issue the tax credit certificates on a first-come,  
2 4 first-served basis.  
2 5 Sec. 3. APPLICABILITY DATE. This division of this Act  
2 6 applies to contracts and agreements entered into or tax  
2 7 credits awarded on or after July 1, 2009.  
2 8 DIVISION II  
2 9 NET OPERATING LOSS CARRYBACK  
2 10 Sec. 4. Section 422.35, subsection 11, Code 2009, is  
2 11 amended to read as follows:  
2 12 11. If after applying all of the adjustments provided for

2 13 in this section and the allocation and apportionment  
2 14 provisions of section 422.33, the Iowa taxable income results  
2 15 in a net operating loss, such net operating loss shall be  
2 16 deducted as follows:

2 17 a. ~~The For tax years beginning prior to January 1, 2009,~~  
2 18 ~~the Iowa net operating loss shall be carried back three~~  
2 19 ~~taxable years for a net operating loss incurred in a~~  
2 20 ~~presidentially declared disaster area by a taxpayer engaged in~~  
2 21 ~~a small business or in the trade or business of farming. For~~  
2 22 ~~all other Iowa net operating losses for tax years beginning~~  
2 23 ~~prior to January 1, 2009,~~ the net operating loss shall be  
2 24 carried back two taxable years or to the taxable year in which  
2 25 the corporation first commenced doing business in this state,  
2 26 whichever is later.

2 27 b. ~~The An Iowa net operating loss for a tax year beginning~~  
2 28 ~~on or after January 1, 2009, or an Iowa net operating loss~~  
2 29 ~~remaining after being carried back as required in paragraph~~  
2 30 ~~"a" or "f" or if not required to be carried back shall be~~  
2 31 ~~carried forward twenty taxable years.~~

2 32 c. If the election under section 172(b)(3) of the Internal  
2 33 Revenue Code is made, the Iowa net operating loss shall be  
2 34 carried forward twenty taxable years.

2 35 d. No portion of a net operating loss which was sustained  
3 1 from that portion of the trade or business carried on outside  
3 2 the state of Iowa shall be deducted.

3 3 e. The limitations on net operating loss carryback and  
3 4 carryforward under sections 172(b)(1)(E) and 172(h) of the  
3 5 Internal Revenue Code shall apply.

3 6 f. Notwithstanding paragraph "a", for a taxpayer who is  
3 7 engaged in the trade or business of farming as defined in  
3 8 section 263A(e)(4) of the Internal Revenue Code and has a loss  
3 9 from farming as defined in section 172(b)(1)(F) of the  
3 10 Internal Revenue Code including modifications prescribed by  
3 11 rule by the director, the Iowa loss from the trade or business  
3 12 of farming, ~~for tax years beginning prior to January 1, 2009,~~  
3 13 is a net operating loss which may be carried back five taxable  
3 14 years prior to the taxable year of the loss.

3 15 g. ~~Provided, however, that The deductions described in~~  
3 16 ~~paragraphs "a" through "f" of this subsection are allowed~~

3 17 ~~subject to the requirement that a corporation affected by the~~  
3 18 ~~allocation provisions of section 422.33 shall be permitted to~~  
3 19 ~~deduct only such that portion of the deductions for net~~  
3 20 ~~operating loss and federal income taxes as that is fairly and~~  
3 21 ~~equitably allocable to Iowa, under rules prescribed by the~~  
3 22 ~~director.~~

3 23 Sec. 5. RETROACTIVE APPLICABILITY DATE. This division of  
3 24 this Act applies retroactively to January 1, 2009, for tax  
3 25 years beginning on or after that date.

3 26 DIVISION III  
3 27 REFUND INTEREST

3 28 Sec. 6. Section 422.25, subsection 3, Code 2009, is  
3 29 amended to read as follows:

3 30 3. If the amount of the tax as determined by the  
3 31 department is less than the amount paid, the excess shall be  
3 32 refunded with interest, the interest to begin to accrue on the  
3 33 first day of the ~~second~~ third calendar month following the  
3 34 date of payment or the date the return was due to be filed, or  
3 35 the extended due date by which the return was due to be filed  
4 1 if ninety percent of the tax was paid by the original due  
4 2 date, or was filed, whichever is the latest, at the rate in  
4 3 effect under section 421.7 counting each fraction of a month  
4 4 as an entire month under the rules prescribed by the director.  
4 5 If an overpayment of tax results from a net operating loss or  
4 6 net capital loss which is carried back to a prior year, the  
4 7 overpayment, for purposes of computing interest on refunds,  
4 8 shall be considered as having been made on the date a claim  
4 9 for refund or amended return carrying back the net operating  
4 10 loss or net capital loss is filed with the department or on  
4 11 the first day of the ~~second~~ third calendar month following the  
4 12 date of the actual payment of the tax, whichever is later.  
4 13 However, when the net operating loss or net capital loss  
4 14 carryback to a prior year eliminates or reduces an  
4 15 underpayment of tax due for an earlier year, the full amount  
4 16 of the underpayment of tax shall bear interest at the rate in  
4 17 effect under section 421.7 for each month counting each  
4 18 fraction of a month as an entire month from the due date of  
4 19 the tax for the earlier year to the last day of the taxable  
4 20 year in which the net operating loss or net capital loss  
4 21 occurred.

4 22 Sec. 7. Section 422.91, Code 2009, is amended to read as  
4 23 follows:

4 24 422.91 CREDIT FOR ESTIMATED TAX.

4 25 1. Any amount of estimated tax paid is a credit against  
4 26 the amount of tax due on a final, completed return, and any  
4 27 overpayment of five dollars or more shall be refunded to the  
4 28 taxpayer with interest, the interest to begin to accrue on the  
4 29 first day of the ~~second~~ third calendar month following the  
4 30 date of payment or the date the return was due to be filed or  
4 31 was filed, whichever is the latest, at the rate established  
4 32 under section 421.7, and the return constitutes a claim for  
4 33 refund for this purpose. Amounts less than five dollars shall  
4 34 be refunded to the taxpayer only upon written application in  
4 35 accordance with section 422.73, and only if the application is  
5 1 filed within twelve months after the due date for the return.

5 2 2. In lieu of claiming a refund, the taxpayer may elect to  
5 3 have the overpayment shown on its final, completed return for  
5 4 the taxable year credited to the tax liability for the  
5 5 following taxable year.

5 6 Sec. 8. RETROACTIVE APPLICABILITY DATE. This division of  
5 7 this Act applies retroactively to January 1, 2009, for tax  
5 8 years beginning on or after that date.

5 9 EXPLANATION

5 10 This bill relates to tax credits for economic development  
5 11 and agricultural assets transfers, to net operating losses,  
5 12 and to refund interest.

5 13 Division I of the bill sets a maximum aggregate limit on  
5 14 the amount of tax credits the department of economic  
5 15 development may issue pursuant to the high quality jobs  
5 16 creation program, the film television and video project  
5 17 promotion program, the corporate research tax credit of the  
5 18 quality jobs enterprise zone program, the enterprise zones  
5 19 program, and the assistive device tax credit program. The  
5 20 department may not issue more than \$175 million of tax credits  
5 21 under these programs.

5 22 Division I also limits the amount of tax credits that may  
5 23 be issued under the agricultural assets transfer tax credit  
5 24 program to \$3 million.

5 25 Division I applies to contracts and agreements entered into  
5 26 or tax credits awarded on or after July 1, 2009.

5 27 Division II ends the carryback of net operating losses of  
5 28 corporations in tax years beginning on or after January 1,  
5 29 2009, and provides only for the current carryforward period of  
5 30 twenty taxable years.

5 31 Division II applies retroactively to January 1, 2009, for  
5 32 tax years beginning on or after that date.

5 33 Code sections 422.25 and 422.91 provide for the accrual of  
5 34 interest on refunds due to individual and corporate income  
5 35 taxpayers. The refund period begins on the first day of the  
6 1 second calendar month following the date of payment or the  
6 2 date the return was due to be filed. Division III of the bill  
6 3 provides that the period begins on the first day of the third  
6 4 calendar month.

6 5 Division III applies retroactively to January 1, 2009, for  
6 6 tax years beginning on or after that date.

6 7 LSB 2703SV 83

6 8 tw/sc/8