

Senate File 2345 - Introduced

SENATE FILE 2345

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2227)

(SUCCESSOR TO SSB 3151)

A BILL FOR

1 An Act relating to economic development by modifying the
2 innovation fund investment tax credit and the authority and
3 duties of the Iowa innovation corporation, and including
4 effective date and retroactive applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 15.107A, Code Supplement 2011, is
2 amended by adding the following new subsection:

3 NEW SUBSECTION. 3. The corporation may establish an
4 innovation fund for purposes of stimulating early-stage and
5 seed capital investment in the state. If the innovation fund
6 is established to qualify for innovation tax credits pursuant
7 to section 15E.52, then the corporation shall ensure that the
8 following requirements are met:

9 a. Any entity engaged to provide investment management
10 services to the innovation fund shall be chosen according to an
11 open and competitive proposal process, and the duration of a
12 contract entered into with such an entity shall not exceed four
13 years.

14 b. The compensation package provided to an entity engaged
15 pursuant to paragraph "a" shall be at or below the market rate
16 for such services as determined by at least one independent
17 investment management evaluation group.

18 c. Any contract entered into for services pursuant to
19 this subsection shall be made available to the authority, the
20 general assembly, the auditor of state, and the governor's
21 office.

22 d. The corporation complies with the provisions of section
23 15.107C.

24 Sec. 2. Section 15.107C, subsections 3 and 4, Code
25 Supplement 2011, are amended to read as follows:

26 3. The deliberations or meetings of the board of directors
27 of the corporation that pertain to the performance of delegated
28 functions or activities that utilize public funding shall be
29 conducted in accordance with chapter 21. For purposes of this
30 subsection, "public funding" includes innovation fund investment
31 tax credits issued or transferred pursuant to section 15E.52.

32 4. All of the following shall be subject to chapter 22:

33 a. Minutes of the meetings conducted in accordance with
34 subsection 3.

35 b. All records pertaining to the performance by the

1 corporation of delegated functions or activities that utilize
2 public funding. For purposes of this subsection, "public
3 funding" includes innovation fund investment tax credits issued
4 or transferred pursuant to section 15E.52.

5 Sec. 3. Section 15.119, subsection 2, paragraph g, Code
6 Supplement 2011, is amended to read as follows:

7 g. The tax credits for investments in an innovation fund
8 pursuant to section 15E.52. In allocating tax credits pursuant
9 to this subsection, the authority shall allocate eight million
10 dollars for purposes of this paragraph for each fiscal year
11 during the period beginning July 1, 2012, and ending June 30,
12 2014. For each fiscal year beginning on or after July 1, 2015,
13 the authority shall allocate zero dollars for purposes of this
14 paragraph.

15 Sec. 4. Section 15E.52, Code Supplement 2011, is amended to
16 read as follows:

17 **15E.52 Innovation fund investment tax credits.**

18 1. For purposes of this section, unless the context
19 otherwise requires:

20 a. "Board" means the same as defined in section 15.102.

21 b. "Innovation fund" means one or more early-stage capital
22 funds certified by the board.

23 c. "Innovative business" means a business applying novel
24 or original methods to the manufacture of a product or the
25 delivery of a service. "Innovative business" includes but is
26 not limited to a business engaged in a targeted industry as
27 defined in section 15.411.

28 2. a. A tax credit shall be allowed against the taxes
29 imposed in chapter 422, divisions II, III, and V, and in
30 chapter 432, and against the moneys and credits tax imposed
31 in section 533.329, ~~for a portion of~~ a taxpayer's equity
32 investment in the form of cash in an innovation fund.

33 b. An individual may claim a tax credit under this section
34 of a partnership, limited liability company, S corporation,
35 estate, or trust electing to have income taxed directly to

1 the individual. The amount claimed by the individual shall
2 be based upon the pro rata share of the individual's earnings
3 from the partnership, limited liability company, S corporation,
4 estate, or trust.

5 3. a. ~~The amount of a tax credit allowed under this section~~
6 ~~shall equal twenty percent of the taxpayer's equity investment~~
7 in an innovation fund tax credits issued under this section
8 for a fiscal year shall equal the amount allocated in section
9 15.119, subsection 2, paragraph "g".

10 b. The authority shall issue one or more certificates
11 totaling the amount allowed under paragraph "a" to one or more
12 nonprofit corporations operating an innovation fund.

13 c. Notwithstanding subsection 9, a corporation to which a
14 certificate has been issued pursuant to paragraph "b" shall
15 only transfer the amount of tax credits represented on the
16 certificate to taxpayers who agree to invest in an innovation
17 fund. In transferring such tax credits, the corporation shall
18 ensure that the amount of tax credits transferred by the
19 corporation to a taxpayer does not exceed fifty percent of the
20 taxpayer's investment in the innovation fund.

21 d. A corporation to which a certificate has been issued
22 pursuant to paragraph "b" shall ensure that an investor in
23 an innovation fund operated by the corporation shall not be
24 permitted to vote for or participate in a decision to invest
25 moneys from the innovation fund in a business in which the
26 investor has an equity interest of greater than fifty percent
27 if that investor has received or will receive a tax credit
28 issued or transferred pursuant to this section.

29 4. A taxpayer shall not claim a tax credit under this
30 section if the taxpayer is a venture capital investment fund
31 allocation manager for the Iowa fund of funds created in
32 section 15E.65 or an investor that receives a tax credit for
33 the same investment in a qualifying business as described in
34 section 15E.44 or in a community-based seed capital fund as
35 described in section 15E.45.

1 5. ~~a. The board shall issue certificates under this section~~
2 ~~which may be redeemed for tax credits. The board shall issue~~
3 ~~such certificates so that not more than the amount allocated~~
4 ~~for such tax credits under section 15.119, subsection 2, may be~~
5 ~~claimed. The certificates shall not be transferable.~~

6 ~~b.~~ The board shall, in cooperation with the department of
7 revenue, establish criteria and procedures for the allocation
8 and issuance of tax credits by means of certificates issued
9 by the board. The criteria shall include the contingencies
10 that must be met for a certificate to be redeemable in order to
11 receive a tax credit. The procedures established by the board,
12 in cooperation with the department of revenue, shall relate to
13 the procedures for the issuance of the certificates and for the
14 redemption of a certificate and related tax credit.

15 6. A taxpayer shall not redeem a certificate and related tax
16 credit prior to the third tax year following the tax year in
17 which the investment is made. Any tax credit in excess of the
18 taxpayer's liability for the tax year may be credited to the
19 tax liability for the following five years or until depleted,
20 whichever is earlier. A tax credit shall not be carried back
21 to a tax year prior to the tax year in which the taxpayer claims
22 the tax credit.

23 7. An innovation fund shall submit an application for
24 certification to the board. The board shall approve the
25 application and certify the innovation fund if all of the
26 following criteria are met:

27 a. The fund is organized for the purposes of making
28 investments in promising early-stage companies which have a
29 principal place of business in the state.

30 b. The fund proposes to make investments in innovative
31 businesses.

32 c. The fund seeks to secure private funding sources for
33 investment in such businesses.

34 d. The fund meets any other criteria adopted by the
35 authority by rule.

1 8. A tax credit certificate issued pursuant to this section
2 shall not and cannot pledge the credit of the state. A tax
3 credit certificate issued pursuant to this section shall not
4 constitute a contract binding the state if such a certificate
5 is pledged to secure the debt of a taxpayer.

6 9. Tax credit certificates issued pursuant to this section
7 may be transferred to any person or entity. Within ninety days
8 of transfer, the transferee shall submit the transferred tax
9 credit certificate to the department of revenue along with a
10 statement containing the transferee's name, tax identification
11 number, and address, the denomination that each replacement
12 tax credit certificate is to carry, and any other information
13 required by the department of revenue.

14 10. Within thirty days of receiving the transferred
15 tax credit certificate and the transferee's statement, the
16 department of revenue shall issue one or more replacement
17 tax credit certificates to the transferee. Each replacement
18 tax credit certificate must contain the information required
19 for the original tax credit certificate and must have the
20 same expiration date that appeared in the original tax credit
21 certificate. A replacement tax credit certificate may reflect
22 a different type of tax than the type of tax noted on the
23 original tax credit certificate. A tax credit shall not be
24 claimed by a transferee under this section until a replacement
25 tax credit certificate identifying the transferee as the proper
26 holder has been issued.

27 11. The transferee may use the amount of the tax credit
28 transferred against the taxes imposed in chapter 422, divisions
29 II, III, and V, and in chapter 432, and against the moneys and
30 credits tax imposed in section 533.329, for any tax year the
31 original transferor could have claimed the tax credit. Any
32 consideration received for the transfer of the tax credit shall
33 not be included as income under chapter 422, divisions II, III,
34 and V. Any consideration paid for the transfer of the tax
35 credit shall not be deducted from income under chapter 422,

1 divisions II, III, and V.

2 12. Notwithstanding section 422.20 or 422.72 or any other
3 provision of law to the contrary, for any transfer of a tax
4 credit certificate pursuant to this section, the department
5 of revenue shall make publicly available the name of the
6 transferee and the amount of the credits transferred.

7 Sec. 5. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
8 immediate importance, takes effect upon enactment.

9 Sec. 6. RETROACTIVE APPLICABILITY. This Act applies
10 retroactively to January 1, 2012, for tax years beginning on or
11 after that date and equity investments in an innovation fund
12 made on or after that date.

13 EXPLANATION

14 This bill relates to economic development by modifying the
15 innovation fund investment tax credit and allowing the Iowa
16 innovation corporation to establish an innovation fund.

17 Under current law, the economic development authority is
18 required to issue nontransferable tax credit certificates
19 equal to 20 percent of a taxpayer's equity investment in an
20 innovation fund. The tax credits available for issuance are
21 limited to a total of \$8 million per fiscal year.

22 The bill modifies the credit by removing the 20 percent
23 limitation and specifying that for each fiscal year of the
24 period beginning July 1, 2012, and ending June 30, 2014, a
25 total of \$8 million in innovation fund investment tax credit
26 certificates shall be issued by the authority to one or more
27 nonprofit corporations operating an innovation fund. No new
28 innovation fund investment tax credit certificates shall be
29 issued by the authority on or after July 1, 2015. A nonprofit
30 corporation which receives a tax credit certificate from the
31 authority shall only transfer the certificate to taxpayers
32 who agree to invest in an innovation fund, and shall not
33 transfer tax credits to a taxpayer in excess of 50 percent
34 of the taxpayer's investment in an innovation fund. The
35 bill makes the tax credit certificates transferable and

1 establishes procedures for transferring the credit to another
2 person or entity. The department of revenue shall make
3 publicly available the name of each transferee and the amount
4 transferred.

5 The bill provides that any innovation tax credit certificate
6 issued by the authority cannot pledge the credit of the state
7 and shall not constitute a contract binding the state if the
8 certificate is pledged to secure a debt of the taxpayer.

9 The bill adds an additional requirement for certification of
10 an innovation fund which requires an applicant fund to meet any
11 other criteria adopted by the economic development authority
12 by rule.

13 The bill allows the Iowa innovation corporation to establish
14 an innovation fund for purposes of stimulating early-stage
15 and seed capital investment in the state. If the fund is
16 established to qualify for innovation fund tax credits, then
17 it must meet certain requirements as described in the bill
18 relating to contracts for investment management services and
19 must comply with certain open meeting and records requirements
20 in Code section 15.107C. In addition, any investor in an
21 innovation fund operated by the Iowa innovation corporation is
22 not permitted to vote on or participate in investment decisions
23 of the innovation fund related to businesses in which the
24 investor has a greater than 50 percent equity interest if that
25 investor has or will receive an innovation fund tax credit.

26 The bill is effective upon enactment and applies
27 retroactively to January 1, 2012, for tax years beginning on
28 or after that date and for equity investments in an innovation
29 fund made on or after that date.