

House Study Bill 198 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
ECONOMIC GROWTH BILL BY
CHAIRPERSON HANUSA)

A BILL FOR

1 An Act relating to the innovation fund investment tax credit
2 by modifying the tax credit and the authority and duties of
3 the Iowa innovation corporation relating to the tax credit,
4 and including effective date and retroactive applicability
5 provisions.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 15.107A, Code 2013, is amended by adding
2 the following new subsection:

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

9 a. If the corporation seeks to enter into a contract with
10 an entity to provide investment management services to the
11 innovation fund, such an entity shall be chosen according to an
12 open and competitive proposal process.

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

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

21 Sec. 2. Section 15E.52, Code 2013, is amended to read as
22 follows:

23 **15E.52 Innovation fund investment tax credits.**

24 1. For purposes of this section, unless the context
25 otherwise requires:

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

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

29 c. "Innovative business" means a business applying novel
30 or original methods to the manufacture of a product or the
31 delivery of a service. "Innovative business" includes but is
32 not limited to a business engaged in the industries of advanced
33 manufacturing, biosciences, and information technology.

34 2. a. A tax credit shall be allowed against the taxes
35 imposed in chapter 422, divisions II, III, and V, and in

1 chapter 432, and against the moneys and credits tax imposed
2 in section 533.329, for a ~~portion of~~ a taxpayer's equity
3 investment in the form of cash in an innovation fund.

4 *b.* An individual may claim a tax credit under this section
5 of a partnership, limited liability company, S corporation,
6 estate, or trust electing to have income taxed directly to
7 the individual. The amount claimed by the individual shall
8 be based upon the pro rata share of the individual's earnings
9 from the partnership, limited liability company, S corporation,
10 estate, or trust.

11 3. *a.* ~~The amount of a tax credit allowed under this section~~
12 ~~shall equal twenty percent of the taxpayer's equity investment~~
13 ~~in an innovation fund~~ tax credits issued under this section
14 for a fiscal year shall equal the amount allocated in section
15 15.119, subsection 2, paragraph "e".

16 *b.* The authority shall issue one or more certificates
17 totaling the amount allowed per fiscal year under paragraph "a"
18 to one or more nonprofit corporations operating an innovation
19 fund.

20 *c.* Notwithstanding subsection 9, a nonprofit corporation
21 to which a certificate has been issued pursuant to paragraph
22 "b" shall only transfer the amount of tax credits represented
23 on the certificate to taxpayers who make an equity investment
24 in the form of cash in an innovation fund operated by the
25 nonprofit corporation. In transferring such tax credits,
26 the nonprofit corporation shall ensure that the total amount
27 of tax credits transferred by the nonprofit corporation to a
28 taxpayer equals fifty percent of the taxpayer's investment in
29 the innovation fund.

30 *d.* A nonprofit corporation to which a certificate has been
31 issued pursuant to paragraph "b" shall ensure that an investor
32 in an innovation fund operated by the nonprofit corporation
33 shall not be permitted to vote for or participate in a decision
34 to invest moneys from the innovation fund in a business in
35 which the investor has an equity interest of greater than fifty

1 percent if that investor has received or will receive a tax
2 credit pursuant to this section.

3 e. A certificate and related tax credit issued pursuant to
4 this section shall be deemed a vested right of the original
5 holder or any transferee thereof, and the state shall not cause
6 either to be redeemed in such a way that amends or rescinds the
7 certificate or that curtails, limits, or withdraws the related
8 tax credit, except as otherwise provided in this section or
9 upon consent of the proper holder. A certificate issued
10 pursuant to this section cannot pledge the credit of the state
11 and any such certificate so pledged to secure the debt of the
12 original holder or a transferee shall not constitute a contract
13 binding the state.

14 4. A taxpayer shall not claim a tax credit under this
15 section if the taxpayer is a venture capital investment fund
16 allocation manager for the Iowa fund of funds created in
17 section 15E.65 or an investor that receives a tax credit for
18 the same investment in a qualifying business as described in
19 section 15E.44 or in a community-based seed capital fund as
20 described in section 15E.45.

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

26 ~~b.~~ The board shall, in cooperation with the department of
27 revenue, establish criteria and procedures for the allocation
28 and issuance of tax credits by means of certificates issued
29 by the board. The criteria shall include the contingencies
30 that must be met for a certificate to be redeemable in order
31 to receive a tax credit. The procedures established by the
32 board, in cooperation with the department of revenue, shall
33 relate to the procedures for the issuance and transfer of
34 the certificates and for the redemption of a certificate and
35 related tax credit.

1 6. The department of revenue in conjunction with the
2 authority shall by February 15 of each year issue an annual
3 report to the general assembly containing the name of
4 each person to whom a tax credit certificate was issued or
5 transferred pursuant to this section during the previous
6 calendar year.

7 ~~6. 7. A taxpayer shall not redeem a certificate and related~~
8 ~~tax credit prior to the third tax year following the tax year~~
9 ~~in which the investment is made. Any tax credit in excess of~~
10 ~~the taxpayer's liability for the tax year in which the taxpayer~~
11 ~~claims the credit may be credited to the tax liability for the~~
12 ~~following five years or until depleted, whichever is earlier.~~
13 ~~A tax credit shall not be carried back to a tax year prior to~~
14 ~~the tax year in which the taxpayer claims the tax credit.~~

15 ~~7. 8.~~ An innovation fund shall submit an application
16 for certification to the board. The board shall approve the
17 application and certify the innovation fund if all of the
18 following criteria are met:

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

22 b. The fund proposes to make investments in innovative
23 businesses.

24 c. The fund seeks to secure private funding sources for
25 investment in such businesses.

26 d. The fund meets any other criteria adopted by the
27 authority by rule.

28 9. Tax credit certificates issued pursuant to this section
29 may be transferred, in whole or in part, to any person. A
30 tax credit certificate shall only be transferred twice. For
31 purposes of this subsection, the two transfers shall include
32 the first transfer from the corporation to an investor and one
33 subsequent transfer from the investor to another transferee.
34 Within ninety days of transfer, the transferee shall submit the
35 transferred tax credit certificate to the department of revenue

1 along with a statement containing the transferee's name, tax
2 identification number, and address, the denomination that each
3 replacement tax credit certificate is to carry, and any other
4 information required by the department of revenue.

5 10. Within thirty days of receiving the transferred
6 tax credit certificate and the transferee's statement, the
7 department of revenue shall issue one or more replacement
8 tax credit certificates to the transferee. Each replacement
9 tax credit certificate must contain the information required
10 for the original tax credit certificate. A replacement tax
11 credit certificate may designate a different tax than the
12 tax designated on the original tax credit certificate. A
13 tax credit shall not be claimed by a transferee under this
14 section until a replacement tax credit certificate identifying
15 the transferee as the proper holder has been issued. The
16 department of revenue shall conspicuously label on the face of
17 the certificate any tax credit certificate that is ineligible
18 for transfer.

19 11. The transferee may use the amount of the tax credit
20 transferred against the taxes imposed in chapter 422, divisions
21 II, III, and V, and in chapter 432, and against the moneys and
22 credits tax imposed in section 533.329, for any tax year the
23 original transferor could have claimed the tax credit. Any
24 consideration received for the transfer of the tax credit shall
25 not be included as income under chapter 422, divisions II, III,
26 and V. Any consideration paid for the transfer of the tax
27 credit shall not be deducted from income under chapter 422,
28 divisions II, III, and V.

29 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
30 immediate importance, takes effect upon enactment.

31 Sec. 4. RETROACTIVE APPLICABILITY. This Act applies
32 retroactively to January 1, 2013, for tax years beginning on
33 or after that date and for equity investments in an innovation
34 fund made on or after that date.

35

EXPLANATION

1 This bill modifies the innovation fund investment tax credit
2 and allows the Iowa innovation corporation to establish an
3 innovation fund.

4 Under current law, the economic development authority is
5 required to issue nontransferable tax credit certificates
6 equal to 20 percent of a taxpayer's equity investment in an
7 innovation fund. The tax credits available for issuance are
8 under the aggregate tax credit limit for certain economic
9 development programs in Code section 15.119, and are limited to
10 a total of \$8 million per fiscal year.

11 The bill modifies the credit by removing the 20 percent
12 limitation and specifying that for each fiscal year a total
13 of \$8 million in innovation fund investment tax credit
14 certificates shall be issued by the authority to one or more
15 nonprofit corporations operating an innovation fund.

16 The bill provides that tax credit certificates may be
17 transferred no more than two times and establishes procedures
18 for transferring the credit to another person. The department
19 of revenue is required to label any tax credit certificate that
20 is no longer eligible for transfer. A nonprofit corporation
21 which receives a tax credit certificate from the authority
22 shall only transfer the certificate to taxpayers who make an
23 equity investment in the form of cash in an innovation fund
24 operated by the nonprofit corporation, which taxpayer shall
25 receive a total amount of tax credits equal to 50 percent
26 of the taxpayer's investment in the innovation fund. The
27 department of revenue and the economic development authority
28 are required to publish an annual report listing the name of
29 each person who has been issued or transferred a tax credit
30 certificate.

31 The bill provides that any innovation tax credit
32 certificates issued by the authority are deemed to be a vested
33 right of the original holder or transferee and the state shall
34 not cause them to be redeemed in such a way that amends,
35 rescinds, curtails, limits, or withdraws the tax credits,

1 except as provided in Code section 15E.52 as amended in the
2 bill. The certificates cannot pledge the credit of the state
3 and shall not constitute a contract binding the state if a
4 certificate is pledged to secure the debt of the original
5 holder or a transferee.

6 The bill adds an additional requirement for certification of
7 an innovation fund by requiring an applicant fund to meet any
8 other criteria adopted by the economic development authority
9 by rule.

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

22 The bill is effective upon enactment and applies
23 retroactively to January 1, 2013, for tax years beginning on
24 or after that date and for equity investments in an innovation
25 fund made on or after that date.