

Senate Study Bill 1112 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
ECONOMIC GROWTH BILL BY
CHAIRPERSON SODDERS)

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 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 15.119, subsection 2, paragraph e, Code
22 2013, is amended by striking the paragraph.

23 Sec. 3. Section 15.411, subsection 1, paragraph a, Code
24 2013, is amended to read as follows:

25 a. "*Innovative business*" ~~means the same as defined in~~
26 ~~section 15E.52~~ a business applying novel or original methods
27 to the manufacture of a product or the delivery of a service.
28 "Innovative business" includes but is not limited to a
29 business engaged in the industries of advanced manufacturing,
30 biosciences, and information technology.

31 Sec. 4. Section 15E.52, Code 2013, is amended to read as
32 follows:

33 **15E.52 Innovation fund investment tax credits.**

34 1. For purposes of this section, unless the context
35 otherwise requires:

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

2 *b.* "Innovation fund" means one or more early-stage capital
3 funds certified by the board.

4 *c.* "Innovative business" means a business applying ~~new~~
5 ~~or original~~ innovative methods to the manufacture of a product
6 or the delivery of a service. "Innovative business" includes
7 but is not limited to a business engaged in the industries
8 of advanced manufacturing, biosciences, and information
9 technology.

10 2. *a.* A tax credit shall be allowed against the taxes
11 imposed in chapter 422, divisions II, III, and V, and in
12 chapter 432, and against the moneys and credits tax imposed
13 in section 533.329, for ~~a portion of a taxpayer's equity~~
14 investment in the form of cash in an innovation fund.

15 *b.* An individual may claim a tax credit under this section
16 of a partnership, limited liability company, S corporation,
17 estate, or trust electing to have income taxed directly to
18 the individual. The amount claimed by the individual shall
19 be based upon the pro rata share of the individual's earnings
20 from the partnership, limited liability company, S corporation,
21 estate, or trust.

22 3. *a.* ~~The amount of a tax credit allowed~~ tax credits
23 issued by the authority under this section shall equal twenty
24 fifty percent of the taxpayer's equity investment certified
25 binding investment commitments to invest in an innovation fund.
26 However, the total amount of all certificates issued by the
27 authority pursuant to this section shall not exceed, in the
28 aggregate, fifty million dollars.

29 *b.* A nonprofit corporation operating an innovation fund
30 shall certify to the authority the amount of binding investment
31 commitments it receives to invest in the innovation fund. Upon
32 receiving certification of an amount of binding investment
33 commitments, the authority shall issue one or more certificates
34 totaling fifty percent of the amount of the certified binding
35 investment commitments to the nonprofit corporation operating

1 the innovation fund. Certificates shall be issued in the order
2 in which the authority receives certification of the amounts of
3 binding investment commitments.

4 c. Notwithstanding subsection 8, a nonprofit corporation
5 to which a certificate has been issued pursuant to paragraph
6 "b" shall only transfer the amount of tax credits represented
7 on the certificate to taxpayers who make an equity investment
8 in the form of cash in an innovation fund operated by the
9 nonprofit corporation. In transferring such tax credits,
10 the nonprofit corporation shall ensure that the total amount
11 of tax credits transferred by the nonprofit corporation to a
12 taxpayer equals fifty percent of the taxpayer's investment in
13 the innovation fund.

14 d. Notwithstanding subsection 8, all the nonprofit
15 corporations to which certificates have been issued pursuant to
16 paragraph "b" shall not transfer, in the aggregate, an amount of
17 tax credits in excess of eight million dollars per fiscal year.

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

26 f. A certificate and related tax credit issued pursuant to
27 this section shall be deemed a vested right of the original
28 holder or any transferee thereof, and the state shall not cause
29 either to be redeemed in such a way that amends or rescinds the
30 certificate or that curtails, limits, or withdraws the related
31 tax credit, except as otherwise provided in this section or
32 upon consent of the proper holder. A certificate issued
33 pursuant to this section cannot pledge the credit of the state
34 and any such certificate so pledged to secure the debt of the
35 original holder or a transferee shall not constitute a contract

1 binding the state.

2 4. A taxpayer shall not claim a tax credit under this
3 section if the taxpayer is a venture capital investment fund
4 allocation manager for the Iowa fund of funds created in
5 section 15E.65 or an investor that receives a tax credit for
6 the same investment in a qualifying business as described in
7 section 15E.44 or in a community-based seed capital fund as
8 described in section 15E.45.

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

14 ~~b.~~ The board shall, in cooperation with the department of
15 revenue, establish criteria and procedures for the allocation
16 and issuance of tax credits by means of certificates issued
17 by the board. The criteria shall include the contingencies
18 that must be met for a certificate to be redeemable in order
19 to receive a tax credit. The procedures established by the
20 board, in cooperation with the department of revenue, shall
21 relate to the procedures for the issuance and transfer of
22 the certificates and for the redemption of a certificate and
23 related tax credit.

24 6. ~~A taxpayer shall not redeem a certificate and related~~
25 ~~tax credit prior to the third tax year following the tax year~~
26 ~~in which the investment is made. Any tax credit in excess of~~
27 ~~the taxpayer's liability for the tax year in which the taxpayer~~
28 ~~claims the credit may be credited to the tax liability for the~~
29 ~~following five years or until depleted, whichever is earlier.~~
30 A tax credit shall not be carried back to a tax year prior to
31 the tax year in which the taxpayer claims the tax credit.

32 7. An innovation fund shall submit an application for
33 certification to the board. The board shall approve the
34 application and certify the innovation fund if all of the
35 following criteria are met:

1 *a.* The fund is organized for the purposes of making
2 investments in promising early-stage companies which have a
3 principal place of business in the state.

4 *b.* The fund proposes to make investments in innovative
5 businesses.

6 *c.* The fund seeks to secure private funding sources for
7 investment in such businesses.

8 *d.* The fund meets any other criteria adopted by the
9 authority by rule.

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

18 9. Within thirty days of receiving the transferred tax
19 credit certificate and the transferee's statement, the
20 department of revenue shall issue one or more replacement
21 tax credit certificates to the transferee. Each replacement
22 tax credit certificate must contain the information required
23 for the original tax credit certificate. A replacement tax
24 credit certificate may designate a different tax than the tax
25 designated on the original tax credit certificate. A tax
26 credit shall not be claimed by a transferee under this section
27 until a replacement tax credit certificate identifying the
28 transferee as the proper holder has been issued.

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

1 and V. Any consideration paid for the transfer of the tax
2 credit shall not be deducted from income under chapter 422,
3 divisions II, III, and V.

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

6 Sec. 6. RETROACTIVE APPLICABILITY. This Act applies
7 retroactively to January 1, 2013, for tax years beginning on
8 or after that date and for equity investments in an innovation
9 fund made on or after that date.

10 EXPLANATION

11 This bill relates to economic development by modifying the
12 innovation fund investment tax credit and allowing the Iowa
13 innovation corporation to establish an innovation fund.

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

21 The bill modifies the credit by removing the credit from
22 the aggregate tax credit limit and thereby removing the \$8
23 million allocation limit, removing the 20 percent limitation,
24 and specifying that innovation fund investment tax certificates
25 shall be issued according to the following procedure. First,
26 when a nonprofit corporation receives binding investment
27 commitments to invest in an innovation fund it shall certify
28 those amounts to the economic development authority. After
29 receiving certification of an amount of binding investment
30 commitments, the economic development authority shall issue to
31 the nonprofit corporation operating the innovation fund one or
32 more certificates totaling an amount of tax credits equal to 50
33 percent of the amount of the binding investment commitments.
34 Certificates are to be issued by the economic development
35 authority in the order in which the authority receives

1 certification of the amounts of binding investment commitments.
2 The bill provides that the aggregate amount of tax credits
3 that may be issued by the economic development authority
4 shall not exceed \$50 million. The bill makes the tax credit
5 certificates transferable and establishes procedures for
6 transferring the credit to another person or entity. A
7 nonprofit corporation which receives a tax credit certificate
8 from the authority shall only transfer the certificate to
9 taxpayers who make an equity investment in the form of cash in
10 an innovation fund operated by the nonprofit corporation, which
11 taxpayer shall receive a total amount of tax credits equal to
12 50 percent of the taxpayer's investment in the innovation fund.
13 However, the nonprofit corporations to which certificates have
14 been issued shall not transfer an amount of tax credits that,
15 in the aggregate, exceed \$8 million per fiscal year.
16 The bill provides that any innovation tax credit
17 certificates issued by the authority are deemed to be a vested
18 right of the original holder or transferee and the state shall
19 not cause them to be redeemed in such a way that amends,
20 rescinds, curtails, limits, or withdraws the tax credits,
21 except as provided in Code section 15E.52 as amended in the
22 bill. The certificates cannot pledge the credit of the state
23 and shall not constitute a contract binding the state if a
24 certificate is pledged to secure the debt of the original
25 holder or a transferee.
26 The bill adds an additional requirement for certification of
27 an innovation fund by requiring an applicant fund to meet any
28 other criteria adopted by the economic development authority
29 by rule.
30 The bill amends the definition of "innovative business" as
31 specified in the bill and makes a conforming change to the same
32 definition in Code section 15.411 to keep the language of the
33 latter definition the same as current law.
34 The bill allows the Iowa innovation corporation to establish
35 an innovation fund for purposes of stimulating early-stage

1 and seed capital investment in the state. If the fund is
2 established to qualify for innovation fund tax credits,
3 it must meet certain requirements as described in the bill
4 relating to contracts for investment management services. In
5 addition, any investor in an innovation fund operated by the
6 Iowa innovation corporation is not permitted to vote on or
7 participate in investment decisions of the innovation fund
8 related to businesses in which the investor has a greater than
9 50 percent equity interest if that investor has or will receive
10 an innovation fund tax credit.

11 The bill is effective upon enactment and applies
12 retroactively to January 1, 2013, for tax years beginning on
13 or after that date and for equity investments in an innovation
14 fund made on or after that date.