

Senate Study Bill 3142 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
CULTURAL AFFAIRS BILL)

A BILL FOR

1 An Act relating to the administration of the historic
2 preservation and cultural and entertainment district tax
3 credit program by the department of cultural affairs,
4 providing for fees, and including applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 16.188, subsection 3, paragraph b,
2 subparagraph (1), Code 2014, is amended to read as follows:

3 (1) Projects that are eligible for historic preservation
4 and cultural and entertainment district tax credits under
5 section ~~404A.1~~ 404A.2.

6 Sec. 2. Section 404A.1, Code 2014, is amended by striking
7 the section and inserting in lieu thereof the following:

8 **404A.1 Definitions.**

9 For purposes of this chapter, unless the context otherwise
10 requires:

11 1. "*Completion date*" means the date on which property that
12 is the subject of a qualified rehabilitation project is placed
13 in service, as that term is used in section 47 of the Internal
14 Revenue Code.

15 2. "*Department*" means the department of cultural affairs.

16 3. "*Eligible taxpayer*" means the owner of the property
17 that is the subject of a qualified rehabilitation project, or
18 another person who will qualify for the federal rehabilitation
19 credit allowed under section 47 of the Internal Revenue Code
20 with respect to the property that is the subject of a qualified
21 rehabilitation project.

22 4. "*Nonprofit organization*" means an organization described
23 in section 501 of the Internal Revenue Code unless the
24 exemption is denied under section 501, 502, 503, or 504 of
25 the Internal Revenue Code. "*Nonprofit organization*" does not
26 include a governmental body, as that term is defined in section
27 362.2.

28 5. "*Program*" shall mean the historic preservation and
29 cultural and entertainment district tax credit program set
30 forth in this chapter.

31 6. a. "*Qualified rehabilitation expenditures*" means the
32 same as defined in section 47 of the Internal Revenue Code.
33 Notwithstanding the foregoing sentence, expenditures incurred
34 by an eligible taxpayer that is a nonprofit organization shall
35 be considered "*qualified rehabilitation expenditures*" if they

1 are any of the following:

2 (1) Expenditures made for structural components, as that
3 term is defined in 26 C.F.R. §1.48-1(e)(2).

4 (2) Expenditures made for architectural and engineering
5 fees, site survey fees, legal expenses, insurance premiums, and
6 development fees.

7 *b. "Qualified rehabilitation expenditures"* does not include
8 those expenditures financed by federal, state, or local
9 government grants, forgivable loans, or other forms of public
10 financial assistance that do not require repayment.

11 *c. "Qualified rehabilitation expenditures"* may include
12 expenditures incurred prior to the date an agreement is entered
13 into under section 404A.3, subsection 3.

14 7. *"Qualified rehabilitation project"* means a project for
15 the rehabilitation of property that meets all of the following
16 criteria:

17 *a.* The property is at least one of the following:

18 (1) Property listed on the national register of historic
19 places or eligible for such listing.

20 (2) Property designated as of historic significance to a
21 district listed in the national register of historic places or
22 eligible for such designation.

23 (3) Property or district designated a local landmark by a
24 city or county ordinance.

25 (4) A barn constructed prior to 1937.

26 *b.* The property meets the physical criteria and standards
27 for rehabilitation established by the department by rule. To
28 the extent applicable, the physical standards and criteria
29 shall be consistent with the United States secretary of the
30 interior's standards for rehabilitation.

31 *c.* The project has qualified rehabilitation expenditures
32 that meet or exceed the following:

33 (1) In the case of commercial property, expenditures
34 totaling at least fifty thousand dollars or fifty percent of
35 the assessed value of the property, excluding the land, prior

1 to rehabilitation, whichever is less.

2 (2) In the case of property other than commercial property,
3 expenditures totaling at least twenty-five thousand dollars or
4 twenty-five percent of the assessed value, excluding the land,
5 prior to rehabilitation, whichever is less.

6 Sec. 3. Section 404A.2, Code 2014, is amended by striking
7 the section and inserting in lieu thereof the following:

8 **404A.2 Historic preservation and cultural and entertainment**
9 **district tax credit.**

10 1. An eligible taxpayer who has entered into an agreement
11 under section 404A.3 is eligible to receive a historic
12 preservation and cultural and entertainment district tax credit
13 in an amount not to exceed twenty-five percent of the qualified
14 rehabilitation expenditures of a qualified rehabilitation
15 project.

16 2. The tax credit shall be allowed against the taxes imposed
17 in chapter 422, divisions II, III, and V, and in chapter
18 432. An individual may claim a tax credit under this section
19 of a partnership, limited liability company, S corporation,
20 estate, or trust electing to have income taxed directly to the
21 individual. For an individual claiming a tax credit of an
22 estate or trust, the amount claimed by the individual shall be
23 based upon the pro rata share of the individual's earnings from
24 the estate or trust. For an individual claiming a tax credit
25 of a partnership, limited liability company, or S corporation,
26 the amount claimed by the partner, member, or shareholder,
27 respectively, shall be based upon the amounts designated by
28 the eligible partnership, S corporation, or limited liability
29 company, as applicable.

30 3. Any credit in excess of the taxpayer's tax liability for
31 the tax year shall be refunded with interest computed under
32 section 422.25. In lieu of claiming a refund, a taxpayer
33 may elect to have the overpayment shown on the taxpayer's
34 final, completed return credited to the tax liability for the
35 following year.

1 4. *a.* To claim a tax credit under this section, a taxpayer
2 shall include one or more tax credit certificates with the
3 taxpayer's tax return.

4 *b.* The tax credit certificate shall contain the taxpayer's
5 name, address, tax identification number, the amount of
6 the credit, the name of the eligible taxpayer, any other
7 information required by the department of revenue, and a place
8 for the name and tax identification number of a transferee and
9 the amount of the tax credit being transferred.

10 *c.* The tax credit certificate, unless rescinded by the
11 department, shall be accepted by the department of revenue
12 as payment for taxes imposed in chapter 422, divisions II,
13 III, and V, and in chapter 432, subject to any conditions or
14 restrictions placed by the department or the department of
15 revenue upon the face of the tax credit certificate and subject
16 to the limitations of this program.

17 5. *a.* Tax credit certificates issued under section 404A.3
18 may be transferred to any person. Within ninety days of
19 transfer, the transferee shall submit the transferred tax
20 credit certificate to the department of revenue along with a
21 statement containing the transferee's name, tax identification
22 number, and address, the denomination that each replacement
23 tax credit certificate is to carry, and any other information
24 required by the department of revenue. However, tax credit
25 certificate amounts of less than the minimum amount established
26 by rule of the department of revenue shall not be transferable.

27 *b.* Within thirty days of receiving the transferred tax
28 credit certificate and the transferee's statement, the
29 department of revenue shall issue one or more replacement tax
30 credit certificates to the transferee. Each replacement tax
31 credit certificate must contain the information required for
32 the original tax credit certificate and must have the same
33 expiration date that appeared on the transferred tax credit
34 certificate.

35 *c.* A tax credit shall not be claimed by a transferee

1 under this section until a replacement tax credit certificate
2 identifying the transferee as the proper holder has been
3 issued. The transferee may use the amount of the tax credit
4 transferred against the taxes imposed in chapter 422, divisions
5 II, III, and V, and in chapter 432, for any tax year the
6 original transferor could have claimed the tax credit. Any
7 consideration received for the transfer of the tax credit shall
8 not be included as income under chapter 422, divisions II, III,
9 and V. Any consideration paid for the transfer of the tax
10 credit shall not be deducted from income under chapter 422,
11 divisions II, III, and V.

12 6. For purposes of the individual and corporate income
13 taxes and the franchise tax, the increase in the basis of the
14 rehabilitated property that would otherwise result from the
15 qualified rehabilitation expenditures shall be reduced by the
16 amount of the credit computed under this section.

17 Sec. 4. Section 404A.3, Code 2014, is amended by striking
18 the section and inserting in lieu thereof the following:

19 **404A.3 Application and registration — agreement —**
20 **compliance and audit.**

21 1. *Application and fees.*

22 a. An eligible taxpayer seeking historic preservation and
23 cultural and entertainment district tax credits provided in
24 section 404A.2 shall make application to the department in the
25 manner prescribed by the department.

26 b. The department may accept applications on a continuous
27 basis or may accept applications, or one or more components of
28 an application, during an annual application period.

29 c. The application shall include any information deemed
30 necessary by the department to evaluate the eligibility under
31 the program of the applicant and the rehabilitation project,
32 the amount of projected qualified rehabilitation expenditures
33 of a rehabilitation project, and the amount and source of all
34 funding for a rehabilitation project. An applicant shall have
35 the burden of proof to demonstrate to the department that

1 the applicant is an eligible taxpayer and the project is a
2 qualified rehabilitation project under the program.

3 *d.* The department may establish criteria for the use of
4 electronic or other alternative filing or submission methods
5 for any application, document, or payment requested or
6 required under this program. Such criteria may provide for the
7 acceptance of a signature in a form other than the handwriting
8 of a person.

9 *e.* (1) The department may charge application and other fees
10 to eligible taxpayers who apply to participate in the program.
11 The amount of such fees shall be determined based on the costs
12 of the department associated with administering the program.

13 (2) Fees collected by the department pursuant to this
14 paragraph shall be deposited with the department pursuant to
15 section 303.9, subsection 1.

16 *2. Registration.*

17 *a.* Upon review of the application, the department may
18 register a qualified rehabilitation project under the program.
19 If the department registers the project, the department shall
20 make a preliminary determination as to the amount of tax
21 credits for which the project qualifies.

22 *b.* After registering the qualified rehabilitation project,
23 the department shall notify the eligible taxpayer of successful
24 registration under the program. The notification shall include
25 the amount of tax credits under section 404A.2 for which the
26 qualified rehabilitation project has received a tentative award
27 and a statement that the amount is a preliminary determination
28 only.

29 *3. Agreement.*

30 *a.* Upon successful registration of a qualified
31 rehabilitation project, the eligible taxpayer shall enter into
32 an agreement with the department for the successful completion
33 of all requirements of the program.

34 *b.* The agreement shall contain, at a minimum, the following
35 provisions:

1 (1) The amount of the tax credit award. An eligible
2 taxpayer has no right to receive a tax credit certificate or
3 claim a tax credit until all requirements of the agreement and
4 subsections 4 and 5 have been satisfied. The amount of tax
5 credit included on a tax credit certificate issued under this
6 section shall be contingent upon verification by the department
7 of the amount of final qualified rehabilitation expenditures.

8 (2) The rehabilitation work to be performed.

9 (3) The budget of the qualified rehabilitation project,
10 including the projected qualified rehabilitation expenditures
11 and the source and amount of all funding received or
12 anticipated to be received.

13 (4) The commencement date of the qualified rehabilitation
14 project, which shall not be later than the end of the fiscal
15 year in which the agreement is entered into.

16 (5) The completion date of the qualified rehabilitation
17 project, which shall be within thirty-six months of the
18 commencement date.

19 4. *Compliance.*

20 a. The eligible taxpayer shall, for the length of the
21 agreement, annually certify to the department compliance with
22 the requirements of the agreement. The certification shall
23 be made at such time as the department shall determine in the
24 agreement.

25 b. The eligible taxpayer shall have the burden of proof
26 to demonstrate to the department that all requirements of
27 the agreement are satisfied. The taxpayer shall notify
28 the department in a timely manner of any changes in the
29 qualification of the rehabilitation project or in the
30 eligibility of the taxpayer to claim the tax credit provided
31 under this chapter, or of any other change that may have
32 a negative impact on the eligible taxpayer's ability to
33 successfully complete any requirement under the agreement.

34 c. If after entering into the agreement the eligible
35 taxpayer or the qualified rehabilitation project no longer

1 meets the requirements of the agreement, the department may
2 find the taxpayer in default under the agreement and may
3 revoke the tax credit award. The department of revenue,
4 upon notification by the department of a default, shall seek
5 repayment of the value of any such tax credit already claimed,
6 and the failure to make such a repayment may be treated by the
7 department of revenue in the same manner as a failure to pay
8 the tax shown due or required to be shown due with the filing of
9 a return or deposit form.

10 5. *Audit.*

11 a. Upon completion of the qualified rehabilitation project,
12 an audit of the project completed by an independent certified
13 public accountant licensed in this state shall be submitted to
14 the department along with a statement of the amount of final
15 qualified rehabilitation expenditures and any other information
16 deemed necessary by the department or the department of revenue
17 in order to verify that all requirements of the agreement have
18 been satisfied.

19 b. Notwithstanding paragraph "a", the department may waive
20 the audit requirement in this subsection if all the following
21 requirements are satisfied:

22 (1) The final qualified rehabilitation expenditures of
23 the qualified rehabilitation project, as verified by the
24 department, do not exceed one hundred thousand dollars.

25 (2) The qualified rehabilitation project is funded
26 exclusively by private funding sources.

27 c. Upon review of the audit, if applicable, the department
28 shall verify that all requirements of the agreement have been
29 satisfied and shall verify the amount of final qualified
30 rehabilitation expenditures. After consultation with the
31 department of revenue, the department may issue a tax credit
32 certificate to the eligible taxpayer stating the amount of tax
33 credit under section 404A.2 the eligible taxpayer may claim.
34 The department shall issue the tax credit certificate not later
35 than 60 days following the completion of the audit review, if

1 applicable, and the verifications and consultation required
2 under this paragraph.

3 6. Notwithstanding any other provision of this chapter to
4 the contrary, the amount of tax credit issued on a tax credit
5 certificate to an eligible taxpayer shall not exceed the amount
6 of tax credit award provided for in the agreement.

7 Sec. 5. Section 404A.4, Code 2014, is amended by striking
8 the section and inserting in lieu thereof the following:

9 **404A.4 Aggregate tax credit award limit.**

10 1. Except as provided in subsections 2 and 3, the department
11 shall not award in any one fiscal year an amount of tax credits
12 provided in section 404A.2 in excess of forty-five million
13 dollars.

14 2. *a.* The amount of a tax credit that is awarded during
15 a fiscal year beginning on or after July 1, 2016, and that is
16 irrevocably declined or revoked on or before June 30 of the
17 next fiscal year may be awarded under section 404A.3 during the
18 fiscal year in which the declination or revocation occurs.

19 *b.* The amount of a tax credit that was reserved prior to
20 the effective date of this Act under section 404A.4, Code 2014,
21 for use in a fiscal year beginning before July 1, 2016, that
22 is irrevocably declined or revoked on or after the effective
23 date of this Act, but before July 1, 2016, may be awarded under
24 section 404A.3 during the fiscal year in which such declination
25 or revocation occurs. Such tax credits awarded shall not be
26 claimed by a taxpayer in a fiscal year that is earlier than the
27 fiscal year for which the tax credits were originally reserved.

28 *c.* The amount of a tax credit that was available for
29 approval by the state historical preservation office of the
30 department under section 404A.4, Code 2014, in a fiscal year
31 beginning on or after July 1, 2010, but before July 1, 2014,
32 that was required to be allocated to new projects with final
33 qualified rehabilitation costs of five hundred thousand dollars
34 or less, or seven hundred fifty thousand dollars or less, as
35 the case may be, and that was not finally approved by the state

1 historical preservation office, may be awarded under section
2 404A.3 during the fiscal years beginning on or after July 1,
3 2014, but before July 1, 2016.

4 *d.* Tax credits awarded pursuant to this subsection shall
5 not be considered for purposes of calculating the aggregate tax
6 credit award limit in subsection 1.

7 3. *a.* If during the fiscal year beginning July 1, 2016, or
8 any fiscal year thereafter, the department awards an amount of
9 tax credits that is less than the maximum aggregate tax credit
10 award limit specified in subsection 1, the difference between
11 the amount so awarded and the amount specified in subsection 1,
12 not to exceed ten percent of the amount specified in subsection
13 1, may be carried forward to the succeeding fiscal year and
14 awarded during that fiscal year.

15 *b.* Tax credits awarded pursuant to this subsection shall
16 not be considered for purposes of calculating the aggregate tax
17 credit award limit in subsection 1.

18 Sec. 6. Section 404A.5, Code 2014, is amended to read as
19 follows:

20 **404A.5 Economic impact — recommendations.**

21 1. The department of ~~cultural affairs~~, in consultation with
22 the department of revenue, shall be responsible for keeping
23 the general assembly and the legislative services agency
24 informed on the overall economic impact to the state of ~~the~~
25 ~~rehabilitation of eligible properties~~ qualified rehabilitation
26 projects.

27 2. An annual report shall be filed which shall include
28 but is not limited to data on the number and potential value
29 of qualified rehabilitation projects begun during the latest
30 twelve-month period, the total historic preservation and
31 cultural and entertainment district tax credits originally
32 ~~granted~~ awarded or tax credit certificates originally issued
33 during that period, the potential reduction in state tax
34 revenues as a result of all awarded or issued tax credits still
35 ~~unused~~ unclaimed and eligible for refund, and the potential

1 increase in local property tax revenues as a result of the
2 qualified rehabilitated projects.

3 3. The department ~~of cultural affairs~~, to the extent it
4 is able, shall provide recommendations on whether a the limit
5 on tax credits should be ~~established~~ changed, the need for a
6 broader or more restrictive definition of ~~eligible property~~
7 qualified rehabilitation project, and other adjustments to the
8 tax credits under this chapter.

9 Sec. 7. NEW SECTION. 404A.6 Rules.

10 The department and the department of revenue shall each
11 adopt rules to jointly administer this chapter.

12 Sec. 8. Section 422.11D, Code 2014, is amended by striking
13 the section and inserting in lieu thereof the following:

14 **422.11D Historic preservation and cultural and entertainment**
15 **district tax credit.**

16 The taxes imposed under this division, less the credits
17 allowed under section 422.12, shall be reduced by a historic
18 preservation and cultural and entertainment district tax credit
19 allowed under section 404A.2.

20 Sec. 9. Section 422.33, subsection 10, Code 2014, is amended
21 by striking the subsection and inserting in lieu thereof the
22 following:

23 10. The taxes imposed under this division shall be reduced
24 by a historic preservation and cultural and entertainment
25 district tax credit allowed under section 404A.2.

26 Sec. 10. Section 422.60, subsection 4, Code 2014, is amended
27 by striking the subsection and inserting in lieu thereof the
28 following:

29 4. The taxes imposed under this division shall be reduced by
30 a historic preservation and cultural and entertainment district
31 tax credit allowed under section 404A.2.

32 Sec. 11. Section 432.12A, Code 2014, is amended by striking
33 the section and inserting in lieu thereof the following:

34 **432.12A Historic preservation and cultural and entertainment**
35 **district tax credit.**

1 The taxes imposed under this chapter shall be reduced by a
2 historic preservation and cultural and entertainment district
3 tax credit allowed under section 404A.2.

4 Sec. 12. APPLICABILITY. Unless otherwise provided in
5 this Act, this Act applies to agreements entered into by the
6 department and an eligible taxpayer on or after the effective
7 date of this Act, and rehabilitation projects for which a
8 project application was approved and tax credits reserved prior
9 to the effective date of this Act shall be governed by sections
10 404A.1 through 404A.5, Code 2014.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill changes the historic preservation and cultural
15 and entertainment district tax credit program (program)
16 administered pursuant to Code chapter 404A.

17 Under current law, a taxpayer may receive a tax credit in
18 an amount equal to 25 percent of the qualified rehabilitation
19 costs incurred in rehabilitating properties eligible to be
20 listed on the national register of historic places, historic
21 properties in areas eligible to be designated local historic
22 districts, local landmarks, or barns constructed prior to 1937.
23 The credit is available against the individual and corporate
24 income tax, the franchise tax, and the insurance companies
25 tax. To be eligible for the tax credit, the rehabilitation
26 costs must exceed certain threshold amounts depending on the
27 type of property involved. The aggregate amount of tax credits
28 that may be approved per fiscal year is \$45 million, a certain
29 amount of which is required to be allocated between projects
30 with final qualified rehabilitation costs of \$750,000 or less,
31 projects located in certified cultural and entertainment
32 districts or associated with Iowa great places agreements,
33 disaster recovery projects, and projects that involve the
34 creation of more than 500 new permanent jobs.

35 Under current law, a taxpayer is also required to

1 apply to and receive approval from the state historic
2 preservation office of the department of cultural affairs for a
3 rehabilitation project. The project must meet the statutory
4 requirements and the criteria established in administrative
5 rules by the historic preservation office. Tax credits
6 for an approved rehabilitation project may be reserved by a
7 taxpayer for up to three years, but such reservations shall not
8 exceed an aggregate of \$45 million per fiscal year. Approved
9 rehabilitation projects must be started and completed within
10 a certain time period. Upon completion of the rehabilitation
11 project a certificate of completion is obtained from the state
12 historic preservation office and a tax credit certificate is
13 issued. Tax credits are refundable and may be transferred to
14 another person.

15 Under the bill, an eligible taxpayer may receive a tax
16 credit not to exceed 25 percent of the qualified rehabilitation
17 expenditures of a qualified rehabilitation project.

18 A "qualified rehabilitation project" is defined in the bill
19 as a project for the rehabilitation of property that meets
20 three requirements. First, it must be property listed on the
21 national register of historic places, historic property in an
22 area eligible to be designated a local historic district, a
23 local landmark, or a barn constructed prior to 1937. Second,
24 the property must meet the physical criteria and standards
25 for rehabilitation established by the department of cultural
26 affairs (department) by administrative rule. To the extent
27 applicable, such criteria and standards are required to be
28 consistent with United States secretary of the interior's
29 standards for rehabilitation. Third, the project must have
30 qualified rehabilitation expenditures that, in the case of
31 commercial property, equal or exceed the lesser of at least
32 \$50,000 or 50 percent of the assessed value of the property,
33 excluding the land, prior to rehabilitation; or in the case of
34 all other property, must equal the lesser of at least \$25,000
35 or 25 percent of the assessed value, excluding the land, prior

1 to rehabilitation.

2 "Qualified rehabilitation expenditures" means the same as
3 defined in section 47 of the Internal Revenue Code (IRC).
4 However, the bill provides that if the eligible taxpayer is
5 a nonprofit corporation, an expenditure will be considered a
6 "qualified rehabilitation expenditure" if it is one made for
7 structural components, as defined in 26 C.F.R. §1.48-1(e)(2),
8 or if it is an architectural or engineering fee, site survey
9 fee, legal expense, insurance premium, or development
10 fee. "Qualified rehabilitation expenditures" may include
11 expenditures incurred prior to the date the agreement is
12 entered into by the eligible taxpayer and the department, but
13 excludes expenditures financed by federal, state, or local
14 government grants, forgivable loans, or other forms of public
15 financial assistance that do not require repayment. "Eligible
16 taxpayer" and "nonprofit corporation" are both defined in the
17 bill.

18 Under the bill, an eligible taxpayer seeking the tax credit
19 must apply to the department. The department may prescribe
20 the timing, form, content, and method of application, and may
21 also establish criteria for the use of electronic or other
22 alternative filing methods for applications, documents, or
23 payments. The application must contain certain information as
24 specified in the bill and the taxpayer making the application
25 has the burden of proof to demonstrate eligibility under the
26 program. The department is allowed to charge application or
27 other fees based on the costs of the department associated with
28 the program.

29 If the project in the application meets the definition of a
30 qualified rehabilitation project, the department may register
31 it under the program. The bill requires the department to
32 notify the eligible taxpayer of successful registration under
33 the program and of the amount of tax credits for which the
34 project has received a tentative award.

35 The bill requires the agreement to cover a number of

1 provisions, including the amount of the tax credit award,
2 the rehabilitation work to be performed, the budget of
3 the qualified rehabilitation project, and the project's
4 commencement and completion dates. The commencement date shall
5 not be later than the end of the fiscal year in which the
6 agreement is entered into, and the completion date, which is
7 the date the property is placed in service, must be within 36
8 months of the commencement date. The agreement shall provide
9 that an eligible taxpayer has no right to receive a tax credit
10 certificate or claim a tax credit until all requirements of the
11 agreement and the program have been satisfied, and that the
12 amount of tax credit included on a tax credit certificate shall
13 be contingent upon verification by the department of the amount
14 of final qualified rehabilitation expenditures. The program
15 requires that the eligible taxpayer annually certify to the
16 department the eligible taxpayer's continuing compliance with
17 the agreement, and timely notify the department of any changes
18 that may negatively impact eligibility under the program. The
19 eligible taxpayer will have the burden of proof to demonstrate
20 that all requirements of the agreement are satisfied. The
21 department may find the eligible taxpayer in default if any of
22 the requirements are not met, and may revoke the tax credit
23 award. Upon default, the department of revenue is required
24 to seek recovery of any tax credit claimed. Finally, upon
25 completion of the qualified rehabilitation project, the
26 program requires the eligible taxpayer to submit an audit of
27 the project from a certified public accountant licensed in
28 this state. The department is allowed to waive the audit
29 requirement if the final qualified rehabilitation expenditures
30 do not exceed \$100,000 and the project is exclusively funded by
31 private funding sources.

32 After reviewing the audit, if applicable, the department
33 shall verify the final qualified rehabilitation expenditures
34 and that all requirements of the agreement were satisfied.
35 Following that, the department may issue within 60 days a tax

1 credit certificate stating the amount of tax credit that may be
2 claimed, but such amount shall not exceed the amount of the tax
3 credit award provided for in the agreement.

4 The bill prohibits the department from awarding more
5 than \$45 million in tax credits per fiscal year, with four
6 exceptions. First, any tax credit that is awarded during a
7 fiscal year beginning on or after July 1, 2016, and that is
8 irrevocably declined or revoked on or before June 30 of the
9 next fiscal year, may be awarded during the fiscal year in
10 which the declination or revocation occurs without regard to
11 the \$45 million cap. Second, any tax credit that was reserved
12 under current law before the effective date of the bill for use
13 in a fiscal year beginning before July 1, 2016, and that is
14 irrevocably declined or revoked on or after the effective date
15 of the bill, but before July 1, 2016, may be awarded during
16 the fiscal year in which the declination or revocation occurs,
17 without regard to the \$45 million cap. However, such credits
18 shall not be claimed before the fiscal year for which they were
19 originally reserved. Third, any amount of tax credit that
20 was available for approval under current law during fiscal
21 years 2010-2011, 2011-2012, 2012-2013, or 2013-2014, that was
22 required to be allocated to new projects with final qualified
23 rehabilitation costs of \$500,000 or less, or \$750,000 or less,
24 as the case may be, and that was not finally approved, may be
25 awarded during fiscal years 2014-2015 and 2015-2016 without
26 regard to the \$45 million cap. Fourth, if the department
27 awards during fiscal year 2016-2017, or any fiscal year
28 thereafter, an amount of tax credits that is less than the \$45
29 million cap, the department may carry forward the difference
30 between the amount so awarded and the \$45 million cap, not to
31 exceed 10 percent of the cap, to the succeeding fiscal year
32 for award during that fiscal year, without regard to the \$45
33 million cap.

34 The bill makes several technical changes to Code section
35 404A.5, which governs the department's reporting and

1 recommendation duties, to reference qualified rehabilitation
2 projects and to properly reflect that tax credits will be
3 awarded instead of granted and tax credit certificates issued.
4 The bill requires the department and the department of
5 revenue to adopt rules to jointly administer the program.
6 Unless otherwise provided in the bill, the bill applies
7 to agreements entered into by the department and an eligible
8 taxpayer on or after the effective date of the bill, and
9 rehabilitation projects for which a project application was
10 approved and tax credits reserved prior to the effective date
11 of the bill shall be governed by current law.