

House Study Bill 98 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED ECONOMIC
DEVELOPMENT AUTHORITY BILL)

A BILL FOR

1 An Act relating to the administration of programs by the
2 economic development authority by creating a renewable
3 chemical production tax credit, modifying the tax credit for
4 investments in qualifying businesses and community-based
5 seed capital funds, modifying the entrepreneur investment
6 awards program, and including effective date and retroactive
7 and other applicability provisions.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

RENEWABLE CHEMICAL PRODUCTION TAX CREDIT

1
2
3 Section 1. Section 15.119, subsection 2, Code 2015, is
4 amended by adding the following new paragraph:

5 NEW PARAGRAPH. *h.* The renewable chemical production tax
6 credit program administered pursuant to sections 15.315 through
7 15.320. In allocating tax credits pursuant to this subsection,
8 the authority shall not allocate more than fifteen million
9 dollars for purposes of this paragraph.

10 Sec. 2. NEW SECTION. 15.315 **Short title.**

11 This part shall be known and may be cited as the "*Renewable*
12 *Chemical Production Tax Credit Program*".

13 Sec. 3. NEW SECTION. 15.316 **Definitions.**

14 As used in this part, unless the context otherwise requires:

15 1. "*Biobased content percentage*" means, with respect to any
16 renewable chemical, the amount, expressed as a percentage, of
17 renewable organic material present as determined by testing
18 representative samples using the American society for testing
19 and materials standard D6866.

20 2. "*Biomass feedstock*" means sugar, glycerin, lignin, fat,
21 grease, or oil derived from a plant or animal, or a protein
22 capable of being converted to a building block chemical by
23 means of a biological or chemical conversion process.

24 3. "*Building block chemical*" means a molecule converted
25 from biomass feedstock as a first product that can be
26 further refined into a higher-value chemical, material, or
27 consumer product. "*Building block chemical*" includes but is
28 not limited to glycerol, methanoic or formic acid, arabonic
29 acid, erythronic acid, glyceric acid, glycolic acid, lactic
30 acid, 3-hydroxypropionate, propionic acid, malonic acid,
31 serine, succinic acid, fumaric acid, malic acid, aspartic
32 acid, 3-hydroxybutyrolactone, acetoin, threonine, itaconic
33 acid, furfural, levulinic acid, glutamic acid, xylonic acid,
34 xylaric acid, xylitol, arabitol, citric acid, aconitic acid,
35 5-hydroxymethylfurfural, lysine, gluconic acid, glucaric acid,

1 sorbitol, gallic acid, ferulic acid, nonfuel butanol, nonfuel
2 ethanol, a polymer or gum that can be produced directly from a
3 protein-based biomass feedstock, or such additional molecules
4 as may be included by the authority by rule.

5 4. "*Eligible business*" means a business meeting the
6 requirements of section 15.317.

7 5. "*Program*" means the renewable chemical production tax
8 credit program administered pursuant to this part.

9 6. "*Renewable chemical*" means a building block chemical
10 with a biobased content percentage of at least fifty percent.
11 "*Renewable chemical*" does not include a chemical sold or used
12 for the production of food, feed, or fuel. "*Renewable chemical*"
13 includes cellulosic ethanol or butanol, but only to the extent
14 that such molecules are produced and sold for uses other than
15 food, feed, or fuel.

16 7. "*Sugar*" means the organic compound glucose, fructose,
17 xylose, arabinose, lactose, sucrose, starch, cellulose, or
18 hemicellulose.

19 **Sec. 4. NEW SECTION. 15.317 Eligibility requirements.**

20 To be eligible to receive the renewable chemical production
21 tax credit pursuant to the program, a business shall meet all
22 of the following requirements:

23 1. The business is physically located in this state.

24 2. The business is operated for profit and under single
25 management.

26 3. The business is not an entity providing professional
27 services, health care services, or medical treatments or an
28 entity engaged primarily in retail operations.

29 4. The business organized, expanded, or located in the state
30 on or after the effective date of this division of this Act.

31 5. The business shall not be relocating or reducing
32 operations as described in section 15.329, subsection 1,
33 paragraph "b", and as determined under the discretion of the
34 authority.

35 6. The business is in compliance with all agreements entered

1 into under this program or other programs administered by the
2 authority.

3 Sec. 5. NEW SECTION. 15.318 **Eligible business application**
4 **and agreement — maximum tax credits.**

5 1. *Application.*

6 a. An eligible business that produces a renewable chemical
7 in this state from biomass feedstock during a calendar year may
8 apply to the authority for the renewable chemical production
9 tax credit provided in section 15.319.

10 b. The application shall be made to the authority in the
11 manner prescribed by the authority.

12 c. The application shall be made during the calendar year
13 following the calendar year in which the renewable chemicals
14 are produced.

15 d. The authority may accept applications on a continuous
16 basis or may establish, by rule, an annual application
17 deadline.

18 e. The application shall include all of the following
19 information:

20 (1) The amount of renewable chemicals produced in the state
21 from biomass feedstock by the eligible business during the
22 calendar year, measured in pounds.

23 (2) Any other information reasonably required by the
24 authority in order to establish and verify eligibility under
25 the program.

26 2. *Agreement and fees.*

27 a. Before being issued a tax credit under section 15.319,
28 an eligible business shall enter into an agreement with the
29 authority for the successful completion of all requirements of
30 the program.

31 b. The compliance cost fees authorized in section 15.330,
32 subsection 12, shall apply to all agreements entered into
33 under this program and shall be collected by the authority in
34 the same manner and to the same extent as described in that
35 subsection.

1 *c.* An eligible business shall fulfill all the requirements
2 of the program and the agreement before receiving a tax credit
3 or entering into a subsequent agreement under this section.
4 The authority may decline to enter into a subsequent agreement
5 under this section or issue a tax credit if an agreement is not
6 successfully fulfilled.

7 *d.* Upon establishing that all requirements of the program
8 and the agreement have been fulfilled, the authority shall
9 issue a tax credit and related tax credit certificate to the
10 eligible business stating the amount of renewable chemical
11 production tax credit under section 15.319 the eligible
12 business may claim.

13 3. *Maximum tax credit amount.*

14 *a.* The maximum amount of tax credit that may be issued under
15 section 15.319 to an eligible business for the production of
16 renewable chemicals in a calendar year shall not exceed the
17 following:

18 (1) In the case of an eligible business that has been in
19 operation in the state for five years or less at the time of the
20 application, one million dollars.

21 (2) In the case of an eligible business that has been in
22 operation in the state for more than five years at the time of
23 the application, five hundred thousand dollars.

24 *b.* An eligible business shall not receive a tax credit for
25 renewable chemicals produced before the date the business first
26 qualified as an eligible business pursuant to section 15.317.

27 *c.* An eligible business shall not receive more than five tax
28 credits under the program.

29 *d.* The authority shall issue tax credits under the program
30 on a first-come, first-served basis until the maximum amount of
31 tax credits allocated pursuant to section 15.119, subsection
32 2, paragraph "h", is reached. The authority shall maintain
33 a list of successful applicants under the program, so that
34 if the maximum aggregate amount of tax credits is reached in
35 a given fiscal year, eligible businesses that successfully

1 applied but for which tax credits were not issued shall be
2 placed on a wait list in the order the eligible businesses
3 applied and shall be given priority for receiving tax credits
4 in succeeding fiscal years. Placement on a wait list pursuant
5 to this paragraph shall not constitute a promise binding the
6 state. The availability of a tax credit and issuance of a tax
7 credit certificate pursuant to this subsection in a future
8 fiscal year is contingent upon the availability of tax credits
9 in that particular fiscal year.

10 4. *Termination and repayment.* The failure by an eligible
11 business in fulfilling any requirement of the program or any of
12 the terms and obligations of an agreement entered into pursuant
13 to this section may result in the reduction, termination,
14 or rescission of the tax credits under section 15.319 and may
15 subject the eligible business to the repayment or recapture of
16 tax credits claimed. The repayment or recapture of tax credits
17 pursuant to this subsection shall be accomplished in the same
18 manner as provided in section 15.330, subsection 2.

19 5. *Confidentiality.*

20 a. Except as provided in paragraph "b", any information
21 or record in the possession of the authority with respect to
22 the program shall be presumed by the authority to be a trade
23 secret protected under chapter 550 or common law and shall be
24 kept confidential by the authority unless otherwise ordered by
25 a court.

26 b. The identity of a tax credit recipient and the amount
27 of the tax credit shall be considered public information under
28 chapter 22.

29 Sec. 6. NEW SECTION. 15.319 **Renewable chemical production**
30 **tax credit.**

31 1. An eligible business that has entered into an agreement
32 pursuant to section 15.318 may claim a tax credit equal to
33 the product of five cents multiplied by the number of pounds
34 of renewable chemicals produced in this state from biomass
35 feedstock by the eligible business during the calendar year.

1 2. The tax credit shall be allowed against taxes imposed
2 under chapter 422, division II or III.

3 3. The tax credit shall be claimed for the tax year during
4 which the eligible business was issued the tax credit.

5 4. An individual may claim a tax credit under this section
6 of a partnership, limited liability company, S corporation,
7 cooperative organized under chapter 501 and filing as a
8 partnership for federal tax purposes, estate, or trust electing
9 to have income taxed directly to the individual. The amount
10 claimed by the individual shall be based upon the pro rata
11 share of the individual's earnings from the partnership,
12 limited liability company, S corporation, cooperative, estate,
13 or trust.

14 5. Any tax credit in excess of the tax liability for the tax
15 year is refundable, or, upon the election of the taxpayer, such
16 excess tax credit may be credited to the tax liability for the
17 following five years or until depleted, whichever occurs first.
18 However, a taxpayer shall not elect to carry forward the excess
19 tax credit if the taxpayer claims a refundable tax credit on
20 the same tax return.

21 6. *a.* To claim a tax credit under this section, a taxpayer
22 shall include one or more tax credit certificates with the
23 taxpayer's tax return.

24 *b.* The tax credit certificate shall contain the taxpayer's
25 name, address, tax identification number, the amount of the
26 credit, the name of the eligible business, and any other
27 information required by the department of revenue.

28 *c.* The tax credit certificate, unless rescinded by the
29 authority, shall be accepted by the department of revenue as
30 payment for taxes imposed pursuant to chapter 422, divisions II
31 and III, subject to any conditions or restrictions placed by
32 the authority upon the face of the tax credit certificate and
33 subject to the limitations of the program.

34 *d.* Tax credit certificates issued pursuant to this section
35 shall not be transferred to any other person.

1 Sec. 7. **NEW SECTION. 15.320 Rules.**

2 The authority and the department of revenue shall each adopt
3 rules as necessary for the implementation and administration
4 of this part.

5 Sec. 8. **NEW SECTION. 422.10A Renewable chemical production**
6 **tax credit.**

7 The taxes imposed under this division, less the credits
8 allowed under section 422.12, shall be reduced by a renewable
9 chemical production tax credit allowed under section 15.319.

10 Sec. 9. Section 422.33, Code 2015, is amended by adding the
11 following new subsection:

12 **NEW SUBSECTION. 22.** The taxes imposed under this division
13 shall be reduced by a renewable chemical production tax credit
14 allowed under section 15.319.

15 Sec. 10. **EFFECTIVE UPON ENACTMENT.** This division of this
16 Act, being deemed of immediate importance, takes effect upon
17 enactment.

18 Sec. 11. **APPLICABILITY.** This division of this Act applies
19 to renewable chemicals produced in the state from biomass
20 feedstock on or after the effective date of this division of
21 this Act.

22 Sec. 12. **RETROACTIVE APPLICABILITY.** This division of this
23 Act applies retroactively to January 1, 2015, for tax years
24 beginning on or after that date.

25 DIVISION II

26 ANGEL INVESTOR TAX CREDITS

27 Sec. 13. Section 2.48, subsection 3, paragraph d,
28 subparagraph (1), Code 2015, is amended to read as follows:

29 (1) Tax credits for investments in qualifying businesses
30 ~~and community-based seed capital funds~~ under chapter 15E,
31 division V.

32 Sec. 14. Section 15.119, subsection 2, paragraph d, Code
33 2015, is amended to read as follows:

34 *d.* The tax credits for investments in qualifying businesses
35 ~~and community-based seed capital funds~~ issued pursuant to

1 section 15E.43. In allocating tax credits pursuant to this
2 subsection, the authority shall allocate two million dollars
3 for purposes of this paragraph, unless the authority determines
4 that the tax credits awarded will be less than that amount.

5 Sec. 15. Section 15E.41, Code 2015, is amended by striking
6 the section and inserting in lieu thereof the following:

7 **15E.41 Purpose.**

8 The purpose of this division is to stimulate job growth,
9 create wealth, and accelerate the creation of new ventures by
10 using investment tax credits to incentivize the transfer of
11 capital from investors to entrepreneurs, particularly during
12 early-stage growth.

13 Sec. 16. Section 15E.42, Code 2015, is amended by adding the
14 following new subsection:

15 NEW SUBSECTION. 2A. *“Entrepreneurial assistance*
16 *program”* includes the entrepreneur investment awards program
17 administered under section 15E.362, the receipt of services
18 from a service provider engaged pursuant to section 15.411,
19 subsection 1, or the program administered under section 15.411,
20 subsection 2.

21 Sec. 17. Section 15E.42, subsection 3, Code 2015, is amended
22 to read as follows:

23 3. *“Investor”* means a person making a cash investment in
24 a qualifying business ~~or in a community-based seed capital~~
25 ~~fund.~~ *“Investor”* does not include a person that holds at least
26 a seventy percent ownership interest as an owner, member, or
27 shareholder in a qualifying business.

28 Sec. 18. Section 15E.42, subsection 4, Code 2015, is amended
29 by striking the subsection.

30 Sec. 19. Section 15E.43, subsections 1 and 2, Code 2015, are
31 amended to read as follows:

32 1. a. For tax years beginning on or after January 1,
33 ~~2002~~ 2015, a tax credit shall be allowed against the taxes
34 imposed in chapter 422, ~~divisions~~ division II, III, and V,
35 ~~and in chapter 432, and against the moneys and credits tax~~

1 ~~imposed in section 533.329,~~ for a portion of a taxpayer's
2 equity investment, as provided in subsection 2, in a qualifying
3 business ~~or a community-based seed capital fund.~~

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

11 ~~b.~~ c. A tax credit shall be allowed only for an investment
12 made in the form of cash to purchase equity in a qualifying
13 business ~~or in a community-based seed capital fund.~~ A
14 taxpayer that has received a tax credit for an investment in
15 a community-based seed capital fund shall not claim the 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
22 redeems the tax credit.

23 ~~c.~~ In the case of a tax credit allowed against the taxes
24 imposed in chapter 422, division II, where the taxpayer died
25 prior to redeeming the entire tax credit, the remaining credit
26 can be redeemed on the decedent's final income tax return.

27 d. Any tax credit in excess of the tax liability for the
28 tax year is refundable, or, upon the election of the taxpayer,
29 such excess tax credit may be credited to the tax liability for
30 the following three years or until depleted, whichever occurs
31 first. However, a taxpayer shall not elect to carry forward
32 the excess tax credit if the taxpayer claims a refundable tax
33 credit on the same tax return. A tax credit shall not be
34 carried back to a tax year prior to the tax year in which the
35 taxpayer redeems the tax credit.

1 2. ~~A~~ The amount of the tax credit shall equal twenty
2 twenty-five percent of the taxpayer's equity investment. The
3 maximum amount of a tax credit for an investment by an investor
4 in any one qualifying business shall be fifty thousand dollars.
5 ~~Each year, an investor and all affiliates of the investor shall~~
6 ~~not claim tax credits under this section for more than five~~
7 ~~different investments in five different qualifying businesses~~
8 that may be claimed per tax year by a natural person and the
9 person's spouse, child, or sibling shall not exceed one hundred
10 thousand dollars combined.

11 Sec. 20. Section 15E.43, subsections 5 and 7, Code 2015, are
12 amended to read as follows:

13 5. A tax credit shall not be ~~transferable~~ transferred to any
14 other ~~taxpayer~~ person.

15 7. The authority shall develop a system for registration
16 and ~~authorization~~ issuance of tax credits authorized pursuant
17 to this division and shall control distribution of all tax
18 ~~credits distributed~~ credit certificates to investors pursuant
19 to this division. The authority shall develop rules for the
20 qualification and administration of qualifying businesses
21 ~~and community-based seed capital funds.~~ The department of
22 revenue shall adopt ~~these criteria as administrative rules and~~
23 ~~any other~~ rules pursuant to chapter 17A as necessary for the
24 administration of this division.

25 Sec. 21. Section 15E.43, subsections 6 and 8, Code 2015, are
26 amended by striking the subsections.

27 Sec. 22. Section 15E.44, subsection 2, paragraph c, Code
28 2015, is amended by striking the paragraph and inserting in
29 lieu thereof the following:

30 c. The business is participating in an entrepreneurial
31 assistance program. The authority may waive this requirement
32 if a business establishes that its owners, directors, officers,
33 and employees have an appropriate level of experience such
34 that participation in an entrepreneurial assistance program
35 would not materially change the prospects of the business.

1 The authority may consult with outside service providers in
2 consideration of such a waiver.

3 Sec. 23. Section 15E.44, subsection 2, paragraphs e and f,
4 Code 2015, are amended to read as follows:

5 e. The business shall not have a net worth that exceeds ~~five~~
6 ten million dollars.

7 f. The business shall have secured all of the following at
8 the time of application for tax credits:

9 (1) At least two investors.

10 (2) ~~total~~ Total equity financing, ~~near equity financing,~~
11 binding investment commitments, or some combination thereof,
12 equal to at least ~~two hundred fifty~~ five hundred thousand
13 dollars, from investors. For purposes of this subparagraph,
14 "investor" includes a person who executes a binding investment
15 commitment to a business.

16 Sec. 24. Section 15E.44, subsection 4, Code 2015, is amended
17 to read as follows:

18 4. After verifying the eligibility of a qualifying
19 business, the authority shall issue a tax credit certificate
20 to be included with the equity investor's tax return. The tax
21 credit certificate shall contain the taxpayer's name, address,
22 tax identification number, the amount of credit, the name
23 of the qualifying business, and other information required
24 by the department of revenue. The tax credit certificate,
25 unless rescinded by the authority, shall be accepted by the
26 department of revenue as payment for taxes imposed pursuant to
27 chapter 422, ~~divisions~~ division II, III, ~~and V,~~ and in chapter
28 ~~432, and for the moneys and credits tax imposed in section~~
29 ~~533.329,~~ subject to any conditions or restrictions placed by
30 the authority upon the face of the tax credit certificate and
31 subject to the limitations of section 15E.43.

32 Sec. 25. Section 15E.46, Code 2015, is amended to read as
33 follows:

34 **15E.46 Reports Confidentiality — reports.**

35 1. Except as provided in subsection 2, all information or

1 records in the possession of the authority with respect to
2 this division shall be presumed by the authority to be a trade
3 secret protected under chapter 550 or common law and shall be
4 kept confidential by the authority unless otherwise ordered by
5 a court.

6 2. All of the following shall be considered public
7 information under chapter 22:

8 a. The identity of a qualifying business.

9 b. The identity of an investor and the qualifying business
10 in which the investor made an equity investment.

11 c. The number of tax credit certificates issued by the
12 authority.

13 d. The total dollar amount of tax credits issued by the
14 authority.

15 3. The authority shall publish an annual report of the
16 activities conducted pursuant to this division and shall
17 submit the report to the governor and the general assembly.
18 The report shall include a listing of eligible qualifying
19 businesses and the number of tax credit certificates and the
20 amount of tax credits issued by the authority.

21 Sec. 26. Section 15E.52, subsection 4, Code 2015, is amended
22 to read as follows:

23 4. A taxpayer shall not claim a tax credit under this
24 section if the taxpayer is a venture capital investment fund
25 allocation manager for the Iowa fund of funds created in
26 section 15E.65 or an investor that receives a tax credit for
27 the same investment in a qualifying business as described in
28 section 15E.44 or in a community-based seed capital fund as
29 described in section 15E.45, Code 2015.

30 Sec. 27. Section 422.11F, subsection 1, Code 2015, is
31 amended to read as follows:

32 1. The taxes imposed under this division, less the credits
33 allowed under section 422.12, shall be reduced by an investment
34 tax credit authorized pursuant to section 15E.43 for an
35 investment in a qualifying business ~~or a community-based seed~~

1 ~~capital fund.~~

2 Sec. 28. Section 422.33, subsection 12, paragraph a, Code
3 2015, is amended by striking the paragraph.

4 Sec. 29. Section 422.60, subsection 5, paragraph a, Code
5 2015, is amended by striking the paragraph.

6 Sec. 30. Section 432.12C, subsection 1, Code 2015, is
7 amended by striking the subsection.

8 Sec. 31. Section 533.329, subsection 2, paragraph f, Code
9 2015, is amended by striking the paragraph.

10 Sec. 32. REPEAL. Section 15E.45, Code 2015, is repealed.

11 Sec. 33. EFFECTIVE UPON ENACTMENT. This division of this
12 Act, being deemed of immediate importance, takes effect upon
13 enactment.

14 Sec. 34. APPLICABILITY. Unless otherwise provided in this
15 division of this Act, this division of this Act applies to
16 equity investments in a qualifying business made on or after
17 the effective date of this division of this Act, and equity
18 investments made in a qualifying business or community-based
19 seed capital fund prior to the effective date of this division
20 of this Act shall be governed by sections 15E.41 through
21 15E.46, 422.11F, 422.33, 422.60, 432.12C, and 533.329, Code
22 2015.

23 Sec. 35. APPLICABILITY. The sections of this division
24 of this Act amending section 15E.44, subsection 2, apply
25 to businesses that submit an application to the economic
26 development authority to be registered as a qualifying business
27 on or after the effective date of this division of this Act,
28 and businesses that submit an application to the economic
29 development authority to be registered as a qualifying business
30 before the effective date of this division of this Act shall be
31 governed by section 15E.44, subsection 2, Code 2015.

32 DIVISION III

33 ENTREPRENEUR INVESTMENT AWARDS PROGRAM

34 Sec. 36. Section 15E.362, Code 2015, is amended by striking
35 the section and inserting in lieu thereof the following:

1 **15E.362 Entrepreneur investment awards program.**

2 1. For purposes of this division, unless the context
3 otherwise requires:

4 *a. "Business development services"* includes but is not
5 limited to corporate development services, business model
6 development services, business planning services, marketing
7 services, financial strategies and management services,
8 mentoring and management coaching, and networking services.

9 *b. "Eligible entrepreneurial assistance provider"* means a
10 person meeting the requirements of subsection 3.

11 *c. "Financial assistance"* means the same as defined in
12 section 15.327.

13 *d. "Program"* means the entrepreneur investment awards
14 program administered pursuant to this division.

15 2. The authority shall establish and administer an
16 entrepreneur investment awards program for purposes of
17 providing financial assistance to eligible entrepreneurial
18 assistance providers that provide technical and financial
19 assistance to entrepreneurs and start-up companies seeking to
20 create, locate, or expand a business in the state. Financial
21 assistance under the program shall be provided from the
22 entrepreneur investment awards program fund created in section
23 15E.363.

24 3. In order to be eligible for financial assistance under
25 the program an entrepreneurial assistance provider must meet
26 all of the following requirements:

27 *a.* The provider must have its principal place of operations
28 located in this state.

29 *b.* The provider must offer a comprehensive set of business
30 development services to emerging and early-stage innovation
31 companies to assist in the creation, location, growth, and
32 long-term success of the company in this state.

33 *c.* The business development services may be performed at the
34 physical location of the provider or the company.

35 *d.* The business development services may be provided in

1 consideration of equity participation in the company, a fee
2 for services, a membership agreement with the company, or any
3 combination thereof.

4 4. Entrepreneurial assistance providers may apply for
5 financial assistance under the program in the manner and form
6 prescribed by the authority.

7 5. The economic development authority board in its
8 discretion may approve, deny, or defer each application
9 for financial assistance under the program from persons
10 it determines to be an eligible entrepreneurial assistance
11 provider.

12 6. Subject to subsection 7, the amount of financial
13 assistance awarded to an eligible entrepreneurial assistance
14 provider shall be within the discretion of the authority.

15 7. *a.* The maximum amount of financial assistance awarded
16 to an eligible entrepreneurial assistance provider shall not
17 exceed two hundred thousand dollars.

18 *b.* The maximum amount of financial assistance provided under
19 the program shall not exceed one million dollars in a fiscal
20 year.

21 8. The authority shall award financial assistance on a
22 competitive basis. In making awards of financial assistance,
23 the authority may develop scoring criteria and establish
24 minimum requirements for the receipt of financial assistance
25 under the program. In making awards of financial assistance,
26 the authority may consider all of the following:

27 *a.* The business experience of the professional staff
28 employed or retained by the eligible entrepreneurial assistance
29 provider.

30 *b.* The business plan review capacity of the professional
31 staff of the eligible entrepreneurial assistance provider.

32 *c.* The expertise in all aspects of business disciplines
33 of the professional staff of the eligible entrepreneurial
34 assistance provider.

35 *d.* The access of the eligible entrepreneurial assistance

1 provider to external service providers, including legal,
2 accounting, marketing, and financial services.

3 e. The service model and likelihood of success of the
4 eligible entrepreneurial assistance provider and its similarity
5 to other successful entrepreneurial assistance providers in the
6 country.

7 f. The financial need of the eligible entrepreneurial
8 assistance provider.

9 9. Financial assistance awarded to an eligible
10 entrepreneurial assistance provider shall only be used for
11 the purpose of operating costs incurred by the eligible
12 entrepreneurial assistance provider in providing business
13 development services to emerging and early-stage innovation
14 companies in this state. Such financial assistance shall not
15 be distributed to owners or investors of the company to which
16 business development services are provided and shall not be
17 distributed to other persons assisting with the provision of
18 business development services to the company.

19 10. The authority may contract with outside service
20 providers for assistance with the program or may delegate
21 the administration of the program to the Iowa innovation
22 corporation pursuant to section 15.106B.

23 11. The authority may make client referrals to eligible
24 entrepreneurial assistance providers.

25 Sec. 37. Section 15E.363, subsection 3, Code 2015, is
26 amended to read as follows:

27 3. The Moneys credited to the fund are appropriated to
28 the authority and shall be used to provide grants under the
29 entrepreneur investment awards program established in section
30 15E.362 financial assistance under the program.

31 EXPLANATION

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

34 This bill relates to the administration of programs by the
35 economic development authority (EDA) by creating a renewable

1 chemical production tax credit, modifying the tax credit for
2 investments in qualifying businesses and community-based seed
3 capital funds, and modifying the entrepreneur investment awards
4 program.

5 DIVISION I — RENEWABLE CHEMICAL PRODUCTION TAX CREDIT.

6 Division I creates a renewable chemical production tax credit
7 program (program) that will be administered by the EDA and that
8 will provide tax credits to eligible businesses that produce
9 renewable chemicals in Iowa from biomass feedstock. "Renewable
10 chemical", "biomass feedstock", and other related terms are
11 defined in the division.

12 In order to qualify for the tax credit, a business must
13 meet several requirements. First, the business must be
14 physically located in Iowa and operated for profit under
15 single management. Second, the business must not be an
16 entity providing professional services, health care services,
17 or medical treatments, or be engaged primarily in retail
18 operations. Third, the business must have organized, expanded,
19 or located in Iowa on or after the effective date of the
20 division. Fourth, the business must not be, in the discretion
21 of the EDA, ineligible under certain provisions relating to the
22 relocation or reduction of business operations within Iowa.
23 Fifth, the business must be in compliance with all agreements
24 entered into under the program or other programs administered
25 by the EDA.

26 An eligible business seeking a tax credit is required
27 to apply to the EDA during the calendar year following the
28 calendar year in which the renewable chemicals are produced.
29 The application must include the amount of renewable chemicals
30 produced in Iowa from biomass feedstock by the eligible
31 business during the calendar year, measured in pounds, and any
32 other information reasonably required by the EDA in order to
33 establish and verify eligibility under the program. The EDA
34 may accept applications on a continuous basis or may establish
35 an annual application deadline.

1 Before being issued a tax credit, an eligible business
2 is required to enter into an agreement with the EDA for the
3 successful completion of all requirements of the program. The
4 EDA is authorized to impose two compliance cost fees under the
5 program. The first fee equals \$500 per agreement. The second
6 fee equals 0.5 percent of the value of the tax credit claimed
7 pursuant to the agreement if the agreement has an aggregate tax
8 credit value of \$100,000 or greater.

9 An eligible business that fails to comply with the
10 requirements of the program or the terms of an agreement with
11 the EDA may have its tax credits reduced, terminated, or
12 rescinded, and may be subject to the repayment or recapture of
13 claimed tax credits.

14 Upon determining that all requirements of an agreement and
15 the program have been fulfilled, the EDA shall issue a tax
16 credit and related tax credit certificate to the eligible
17 business in an amount equal to the product of \$.05 multiplied
18 by the number of pounds of renewable chemicals produced in Iowa
19 from biomass feedstock by the eligible business during the
20 calendar year. Renewable chemicals produced by an eligible
21 business prior to the effective date of the division, or
22 prior to the date the business first qualifies as an eligible
23 business, shall not qualify for the tax credit.

24 The tax credit shall be claimed for the tax year during
25 which the eligible business was issued the tax credit. The
26 tax credit may be claimed against the individual income tax
27 and the corporate income tax. The credit is refundable or
28 may, at the election of the taxpayer, be carried forward for
29 up to five tax years. However, a taxpayer shall not elect to
30 carry forward the excess tax credit if the taxpayer claims a
31 refundable tax credit on the same tax return. The tax credit
32 shall not be transferred to any person. A tax credit issued
33 to a partnership, limited liability company, S corporation,
34 cooperative organized under Code chapter 501 and filing as a
35 partnership for federal tax purposes, estate, or trust electing

1 to have the income taxed directly to the individual may be
2 claimed by the individual based upon the pro rata share of the
3 individual's earnings from that entity.

4 The division provides that the program is subject to the
5 EDA's maximum aggregate tax credit cap of \$170 million per
6 fiscal year in Code section 15.119, and not more than \$15
7 million per fiscal year may be issued by the EDA under the
8 program. In addition, the maximum amount of tax credit that
9 may be issued to an eligible business in any one calendar year
10 shall not exceed \$1 million or \$500,000, depending on whether
11 the eligible business has been operating in Iowa at the time of
12 application for five or fewer years, or more than five years,
13 respectively. An eligible business shall not receive more than
14 five tax credits under the program. The EDA is required to
15 issue tax credits on a first-come, first-served basis until the
16 maximum amount of \$15 million per fiscal year is reached. If
17 the amount of tax credits exceeds this amount in a fiscal year,
18 the EDA is required to establish a wait list and give priority
19 in subsequent years to the eligible businesses on the wait
20 list.

21 The division provides for the confidentiality of certain
22 information under the program. The identity of a tax credit
23 recipient and the amount of the tax credit shall be considered
24 public information under Code chapter 22 (examination of public
25 records), but any other information or record in the possession
26 of the EDA with respect to the program shall be presumed by
27 the EDA to be a trade secret protected under Code chapter 550
28 or common law and shall be kept confidential by the EDA unless
29 otherwise ordered by a court.

30 The division takes effect upon enactment and applies to
31 renewable chemicals produced in Iowa from biomass feedstock on
32 or after that date. The division applies retroactively to tax
33 years beginning on or after January 1, 2015.

34 DIVISION II — ANGEL INVESTOR TAX CREDITS. Division II
35 makes several changes to the tax credit for investments in

1 qualifying businesses and community-based seed capital funds,
2 often referred to as the angel investor tax credits. The
3 division amends the purpose of the tax credit in Code section
4 15E.41. The division excludes investments in community-based
5 seed capital funds from qualifying for the tax credit and
6 makes several conforming amendments to remove references to
7 community-based seed capital funds from the Code.

8 The division modifies the amount and dollar limitation of
9 the tax credit for a taxpayer. The tax credit is increased
10 from 20 percent to 25 percent of a taxpayer's equity investment
11 in a qualifying business. Under current law, a taxpayer cannot
12 claim more than \$50,000 of tax credit per investment in a
13 qualifying business, and for each tax year a taxpayer and the
14 taxpayer's affiliates cannot claim tax credits for more than
15 five investments in five different qualifying businesses. The
16 division amends this dollar limitation to prohibit a natural
17 person and the person's spouse, child, or sibling from claiming
18 a combined amount of more than \$100,000 in tax credits per tax
19 year.

20 The division modifies the availability of the tax credit
21 and procedures for claiming the tax credit. Under current
22 law, the tax credit is available against the individual income
23 tax, the corporate income tax, the franchise tax on financial
24 institutions, the insurance companies tax, and the moneys and
25 credits tax on state credit unions. The division provides that
26 the tax credit is available only against the individual income
27 tax. As a result, an investment in a qualifying business
28 will only be eligible for the tax credit if the investor is
29 an individual or a partnership, limited liability company, S
30 corporation, estate, or trust electing to have income taxed
31 directly to the individual. Under current law, the tax credit
32 is not refundable but available for carryforward for up to five
33 tax years. The division makes the tax credit refundable or, at
34 the election of the taxpayer, available for carryforward for
35 up to three tax years. However, a taxpayer shall not elect to

1 carry forward the excess tax credit if the taxpayer claims a
2 refundable tax credit on the same tax return.

3 The division strikes a provision permitting the EDA
4 to cooperate with small business development centers to
5 disseminate information regarding the credits and to develop
6 standard application forms, and requiring the EDA to distribute
7 copies of the application forms to all community-based seed
8 capital funds and potential individual investors.

9 The division modifies the eligibility requirements for
10 qualifying businesses. The division strikes the requirement
11 that a business have an owner that meets at least one of
12 four qualifications relating to business education or
13 business experience. The division requires that a business
14 be participating in an entrepreneurial assistance program,
15 as defined in the division, but allows the EDA to waive this
16 requirement if the business establishes that its owners,
17 directors, officers, and employees have an appropriate level
18 of experience such that an entrepreneurial assistance program
19 would not materially change the prospects of the business.
20 The EDA is allowed to consult with outside service providers
21 in considering such a waiver. The division increases from \$5
22 million to \$10 million the maximum amount of net worth that
23 a business may have to be considered a qualifying business.
24 The division increases from \$250,000 to \$500,000 the amount of
25 financing that a business must have in order to be considered a
26 qualifying business, removes "near equity" from the types of
27 financing that will be considered in that calculation, requires
28 that the financing be secured at the time of application for
29 the tax credits, and requires that the business have at least
30 two investors at the time of application for the tax credits.
31 These modified eligibility requirements apply to businesses
32 that submit an application to the EDA to be registered as a
33 qualifying business on or after the effective date of this
34 division of the bill, and businesses that submitted such an
35 application to the EDA before the effective date of this

1 division of the bill shall be governed by current law.

2 The division provides for the confidentiality of certain
3 information with regard to the tax credit. The identity of
4 a qualifying business, the identity of an investor and the
5 qualifying business in which the investor made an equity
6 investment, and the total number and amount of tax credits
7 issued shall be considered public information under Code
8 chapter 22 (examination of public records), but any other
9 information or record in the possession of the EDA with respect
10 to the program shall be presumed by the EDA to be a trade secret
11 protected under Code chapter 550 or common law and shall be
12 kept confidential by the EDA unless otherwise ordered by a
13 court.

14 The division takes effect upon enactment and applies to
15 equity investments in a qualifying business made on or after
16 that date. Equity investments in a qualifying business or
17 community-based seed capital fund made prior to the effective
18 date of the division shall be governed by current law.

19 DIVISION III — ENTREPRENEUR INVESTMENT AWARDS PROGRAM.

20 Division III amends the entrepreneur investment awards program
21 administered by the EDA. The division strikes provisions that
22 prohibited the EDA from making awards under the program since
23 July 1, 2014, and that required the EDA by December 31, 2014,
24 to conduct a comprehensive review of the program and submit
25 a report with specified information to the governor and the
26 general assembly.

27 The division modifies the purpose of the program to be
28 to provide financial assistance to eligible entrepreneurial
29 assistance providers (provider) that provide technical and
30 financial assistance to entrepreneurs and start-up companies
31 seeking to create, locate, or expand a business in Iowa.
32 "Financial assistance" is defined in the division.

33 The division changes the requirements for receiving an
34 award. To be eligible to receive an award under current
35 law, an entrepreneurial assistance program must have been

1 an Iowa-based business, expended at least \$500,000 during
2 the previous fiscal year to provide technical and financial
3 assistance services that meet the broad-based needs of
4 entrepreneurs seeking to create, locate, or expand a business
5 in Iowa that intends to derive more than 10 percent of its
6 gross sales from markets outside Iowa; and must have engaged
7 and communicated with certain other programs, funding sources,
8 and entities for its entrepreneur clients. The division
9 amends the eligibility for receiving financial assistance to
10 require that a provider have its principal place of operations
11 in Iowa and that the provider offer a comprehensive set of
12 business development services to emerging and early-stage
13 innovation companies to assist in the creation, location,
14 growth, and long-term success of the company in Iowa.
15 "Business development services" is defined in the division.
16 Business development services may be performed at the physical
17 location of the provider or the company and may be provided in
18 consideration of equity participation in the company, a fee for
19 services, or a membership agreement with the company.

20 Under current law, the EDA board could approve, deny, or
21 defer each application for a grant, and was required to award
22 grants on a first-come, first-served basis. The division
23 specifies that the EDA board has the discretion to approve,
24 deny, or defer each application for financial assistance and
25 that the amount of financial assistance awarded to a provider
26 is within the discretion of the EDA. The division requires
27 the EDA to award financial assistance on a competitive basis
28 and allows the EDA to develop scoring criteria and establish
29 minimum requirements for the receipt of a financial assistance
30 award.

31 In addition to the four factors relating to the provider's
32 professional staff that the EDA may consider under current
33 law in deciding whether to award financial assistance, the
34 division provides that the EDA may also consider the service
35 model and likelihood of success of the provider, the provider's

1 similarity to other successful providers in the country, and
2 the provider's financial need.

3 The division modifies the maximum award amount for a
4 recipient. Under current law, a grant to an entrepreneur
5 assistance program cannot exceed the lesser of 25 percent of
6 the funds expended by the program during the previous fiscal
7 year, 100 percent of the funds raised from certain persons
8 by the program during the previous fiscal year, or \$200,000.
9 The division provides that the amount of financial assistance
10 awarded to any one provider shall not exceed \$200,000.

11 The division modifies the permitted use of funds received
12 under the program. Under current law, grants are only
13 permitted to be used for the purpose of operating costs
14 incurred by the program. The division specifies that financial
15 assistance awarded to a provider shall only be used for
16 the purpose of operating costs incurred by the provider in
17 the provision of business development services to emerging
18 and early-stage innovation companies in Iowa. The division
19 further requires that such financial assistance shall not be
20 distributed to owners or investors of the company to which the
21 business development services are being provided and shall not
22 be provided to other persons assisting with the provision of
23 the services.

24 Under current law, an entrepreneurial assistance provider is
25 required to accept client referrals from the EDA as a condition
26 of receiving a grant. The division provides that the EDA may
27 make client referrals to eligible providers.