

House File 362 - Introduced

HOUSE FILE 362
BY COMMITTEE ON ECONOMIC
GROWTH

(SUCCESSOR TO HF 2)

A BILL FOR

1 An Act relating to the construction of child care facilities
2 by providing developers with sales and use tax refunds
3 and income, franchise, moneys and credits, and gross
4 premiums tax credits, providing for a fee, and including
5 applicability provisions.

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

1 Section 1. NEW SECTION. 15.361 Short title.

2 This part shall be known as the "*Workforce Child Care*
3 *Facility Tax Incentives Program*".

4 Sec. 2. NEW SECTION. 15.362 Definitions.

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

6 1. "*Child care facility*" means the same as defined in
7 section 237A.1.

8 2. "*Child care facility project*" means a project located in
9 this state meeting the requirements of section 15.363.

10 3. "*Developer*" means either of the following:

11 a. A business that constructs a new child care facility
12 structure, or rehabilitates, repairs, or redevelops an existing
13 structure for use as a child care facility.

14 b. The legal or equitable titleholder of record who
15 furnishes material for or performs labor upon, or who contracts
16 with a subcontractor to furnish material for or perform labor
17 upon a new child care facility structure, or upon an existing
18 structure for use as a child care facility, and who proposes
19 to lease the structure for use as a child care facility, or
20 intends to offer to sell the structure to a child care facility
21 operator without occupying or using the structures as a child
22 care facility.

23 4. "*Program*" means the workforce child care facility tax
24 credit program administered pursuant to this part.

25 5. "*Qualifying new investment*" means costs that are directly
26 related to the construction, repair, rehabilitation, or
27 redevelopment of a child care facility project.

28 6. "*Small city*" means any city or township located in this
29 state, except those located wholly within one or more of the
30 eleven most populous counties in the state, as determined by
31 the most recent population estimates issued by the United
32 States bureau of the census.

33 Sec. 3. NEW SECTION. 15.363 Child care facility project
34 requirements.

35 To receive workforce child care facility tax incentives

1 pursuant to the program, a proposed child care facility project
2 must meet all of the following requirements:

3 1. The project includes at least one of the following:

4 a. The construction of a new structure to be used as a child
5 care facility.

6 b. The rehabilitation, repair, or redevelopment of an
7 existing structure to be used as a child care facility.

8 2. The child care facility, when completed, meets all
9 applicable safety standards under chapter 237A.

10 Sec. 4. NEW SECTION. 15.364 **Application and agreement.**

11 1. *Application.*

12 a. A developer seeking workforce child care facility
13 tax incentives shall apply to the authority in the manner
14 prescribed by the authority. The authority may accept
15 applications during one or more annual application periods to
16 be determined by the authority by rule.

17 b. The application must include all of the following:

18 (1) The following information establishing local
19 participation for the child care facility project:

20 (a) A resolution in support of the child care facility
21 project by the community where the child care facility project
22 will be located, except in a project where the developer is
23 constructing a new structure, or rehabilitating, repairing, or
24 redeveloping an existing structure on the grounds of a business
25 for exclusive use by the business.

26 (b) Documentation of local matching funds pledged for the
27 child care facility project in an amount equal to at least
28 fifty thousand dollars, or in the case of a small city in an
29 amount equal to at least twenty-five thousand dollars, and
30 including but not limited to a funding agreement between the
31 developer and the community where the child care facility
32 project will be located. For purposes of this paragraph,
33 local matching funds shall be in the form of cash or cash
34 equivalents, or in the form of a local property tax exemption,
35 rebate, refund, or reimbursement.

1 (2) A report that meets the requirements and conditions of
2 section 15.330, subsection 9.

3 (3) Information showing the total costs and funding sources
4 of the child care facility project sufficient to allow the
5 authority to adequately determine the financing that will be
6 utilized for the project, and the amount of the qualifying new
7 investment.

8 (4) Any other information deemed necessary by the authority
9 to evaluate the eligibility and financial need of the child
10 care facility project under the program.

11 2. *Application review — tax incentive award.*

12 a. All completed applications shall be reviewed and scored
13 on a competitive basis by the authority pursuant to rules
14 adopted by the authority.

15 b. Upon review and scoring of all applications received
16 during an application period, the authority may make a tax
17 incentive award to a child care facility project, which tax
18 incentive award shall represent the maximum amount of tax
19 incentives the child care facility project may qualify for
20 under the program. In determining a tax incentive award, the
21 authority shall not use an amount of project costs that exceeds
22 the amount included in the application of the developer. Tax
23 incentive awards shall be approved by the director of the
24 authority.

25 c. After making a tax incentive award, the authority
26 shall notify the developer of its tax incentive award. The
27 notification shall include the amount of tax incentives under
28 section 15.365 for which the developer has received an award
29 and a statement that the developer has no right to receive
30 a tax incentive certificate or claim a tax incentive until
31 all requirements of the program, including all requirements
32 imposed by the agreement entered into pursuant to subsection
33 3, are satisfied. The amount of tax credits included on a tax
34 credit certificate issued pursuant to this section, or a claim
35 for refund of sales and use taxes, shall be contingent upon

1 completion of all requirements in subsection 3.

2 *d.* An applicant that does not receive a tax incentive award
3 during an application period may make additional applications
4 during subsequent application periods. Such applicant shall be
5 required to submit a new application and shall be competitively
6 reviewed and scored in the same manner as other applicants in
7 that application period.

8 *3. Agreement and fees.*

9 *a.* Upon receipt of a tax incentive award by the child care
10 facility project, the developer shall enter into an agreement
11 with the authority for the successful completion of all
12 requirements of the program. The agreement shall identify the
13 tax incentive award amount, the tax incentive award date, the
14 project completion deadline, and the total costs of the child
15 care facility project.

16 *b.* The compliance cost fees imposed in section 15.330,
17 subsection 12, shall apply to all agreements entered into
18 under this program and shall be collected by the authority in
19 the same manner and to the same extent as described in that
20 subsection.

21 *c.* (1) Except as provided in subparagraph (2), a developer
22 shall complete its child care facility project within three
23 years from the date the project is registered by the authority.

24 (2) The authority may for good cause within the discretion
25 of the authority extend a child care facility project's
26 completion deadline once by up to twelve months upon
27 application by the developer, which application shall be made
28 prior to the expiration of the three-year completion deadline
29 in subparagraph (1) in the manner and form prescribed by the
30 authority.

31 *d.* Upon completion of a project, an examination of the
32 project in accordance with the American institute of certified
33 public accountants' statements on standards for attestation
34 engagements, completed by a certified public accountant
35 authorized to practice in this state, shall be submitted to the

1 authority.

2 e. Upon review of the examination and verification of the
3 amount of the qualifying new investment, the authority may
4 notify the developer of the amount that the developer may claim
5 as a refund of the sales and use tax under section 15.365,
6 subsection 2, and may issue a tax credit certificate to the
7 developer stating the amount of workforce child care facility
8 tax credits under section 15.365, subsection 3, the developer
9 may claim. The sum of the amount that the developer may claim
10 as a refund of the sales and use tax and the amount of the
11 tax credit certificate shall not exceed the amount of the tax
12 incentive award.

13 f. (1) If the authority determines the developer to be in
14 default under the agreement, the authority shall revoke the tax
15 incentive award, and shall not issue a tax credit certificate.
16 The developer shall not be allowed a refund of sales and use
17 tax under section 15.365, subsection 2.

18 (2) The authority shall adopt rules pursuant to chapter 17A
19 to specify what constitutes a default of the agreement.

20 4. *Maximum tax incentives amount.*

21 a. For fiscal years beginning on or after July 1, 2022, the
22 authority shall not award in any fiscal year an amount of tax
23 incentives for child care facility projects in excess of three
24 million dollars in the aggregate.

25 b. (1) Of the maximum tax incentive amounts available each
26 fiscal year in paragraph "a", sixty percent shall be awarded to
27 small cities.

28 (2) If by May 1 of a calendar year the entire sixty
29 percent of the reserved tax credits is not distributed, the
30 remaining tax credits shall be available to any other eligible
31 applicants.

32 **Sec. 5. NEW SECTION. 15.365 Workforce child care facility**
33 **tax incentives.**

34 1. A developer that has entered into an agreement pursuant
35 to section 15.364 is eligible to receive the tax incentives

1 described in subsections 2 and 3, not to exceed two hundred
2 thousand dollars in the aggregate per child care facility
3 project.

4 2. A developer may claim a refund of the sales and use
5 taxes paid under chapter 423 that are directly related to a
6 child care facility project and specified in the agreement.
7 The refund available pursuant to this subsection shall be as
8 provided in section 15.331A, excluding subsection 2, paragraph
9 "c", of that section. For purposes of the program, the term
10 "project completion", as used in section 15.331A, shall mean the
11 date on which the authority notifies the department of revenue
12 that all applicable requirements of an agreement entered into
13 pursuant to section 15.364 are satisfied.

14 3. a. A developer may claim a tax credit in an amount not
15 to exceed the following:

16 (1) For a child care facility project not located in a small
17 city, ten percent of the qualifying new investment of a child
18 care facility project specified in the agreement.

19 (2) For a child care facility project located in a small
20 city, twenty percent of the qualifying new investment of a
21 child care facility project specified in the agreement.

22 b. The tax credit shall be allowed against the taxes imposed
23 in chapter 422, subchapters II, III, and V, and in chapter
24 432, and against the moneys and credits tax imposed in section
25 533.329.

26 c. An individual may claim a tax credit under this
27 subsection of a partnership, limited liability company,
28 S corporation, estate, or trust electing to have income
29 taxed directly to the individual. The amount claimed by the
30 individual shall be based upon the pro rata share of the
31 individual's earnings from the partnership, limited liability
32 company, S corporation, estate, or trust.

33 d. Any tax credit in excess of the taxpayer's liability
34 for the tax year is not refundable but may be credited to the
35 tax liability for the following five years or until depleted,

1 whichever is earlier.

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

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

11 (3) The tax credit certificate, unless rescinded by the
12 authority, shall be accepted by the department of revenue as
13 payment for taxes imposed pursuant to chapter 422, subchapters
14 II, III, and V, and in chapter 432, and for the moneys and
15 credits tax imposed in section 533.329, subject to any
16 conditions or restrictions placed by the authority upon
17 the face of the tax credit certificate and subject to the
18 limitations of this program.

19 (4) Tax credit certificates issued under section 15.364,
20 subsection 3, paragraph "e", may be transferred to any person.
21 Within ninety days of transfer, the transferee shall submit the
22 transferred tax credit certificate to the department of revenue
23 along with a statement containing the transferee's name, tax
24 identification number, and address, the denomination that each
25 replacement tax credit certificate is to carry, and any other
26 information required by the department of revenue. However,
27 tax credit certificate amounts of less than the minimum amount
28 established by rule of the authority shall not be transferable.

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

1 certificate.

2 (6) A tax credit shall not be claimed by a transferee
3 under this section until a replacement tax credit certificate
4 identifying the transferee as the proper holder has been
5 issued. The transferee may use the amount of the tax credit
6 transferred against the taxes imposed in chapter 422,
7 subchapters II, III, and V, and in chapter 432, and against the
8 moneys and credits tax imposed in section 533.329, for any tax
9 year the original transferor could have claimed the tax credit.
10 Any consideration received for the transfer of the tax credit
11 shall not be included as income under chapter 422, subchapters
12 II, III, and V. Any consideration paid for the transfer of the
13 tax credit shall not be deducted from income under chapter 422,
14 subchapters II, III, and V.

15 *f.* For purposes of the individual and corporate income
16 taxes and the franchise tax, the increase in the basis of the
17 property that would otherwise result from the qualifying new
18 investment shall be reduced by the amount of the tax credit
19 computed under this subsection.

20 Sec. 6. NEW SECTION. 422.120 Workforce child care facility
21 tax credit.

22 The taxes imposed under this subchapter, less the credits
23 allowed under section 422.12, shall be reduced by a workforce
24 child care facility tax credit received pursuant to section
25 15.365.

26 Sec. 7. Section 422.33, Code 2021, is amended by adding the
27 following new subsection:

28 NEW SUBSECTION. 31. The taxes imposed under this subchapter
29 shall be reduced by a workforce child care facility tax credit
30 received pursuant to section 15.365.

31 Sec. 8. Section 422.60, Code 2021, is amended by adding the
32 following new subsection:

33 NEW SUBSECTION. 14. The taxes imposed under this subchapter
34 shall be reduced by a workforce child care facility tax credit
35 received pursuant to section 15.365.

1 include documentation of local matching funds in an amount
2 equal to at least \$50,000, or in the case of a small city in an
3 amount equal to at least \$25,000, and other information for the
4 EDA to evaluate the eligibility and financial need of the child
5 care facility project under the program. The bill defines
6 "small city" to mean any city or township located in this
7 state, except those located wholly within one or more of the 11
8 most populous counties in the state, as determined by the most
9 recent population estimates issued by the United States bureau
10 of the census.

11 The bill requires the EDA to review and score each
12 application on a competitive basis based upon the rules of the
13 EDA. The EDA is required to notify a developer of a successful
14 application and the amount of tax incentives for which the EDA
15 preliminarily determines it qualifies for under the bill. A
16 developer is then required to enter into an agreement with the
17 EDA for the successful completion of its child care facility
18 project within three years from the date it was registered by
19 the EDA. The bill also assesses a compliance cost fee in the
20 amount of \$500.

21 If the EDA determines the developer to be in default under
22 the agreement, the bill requires the EDA to revoke the tax
23 incentive award, and to not issue the tax credit certificate or
24 a sales and use tax refund. The bill requires the EDA to adopt
25 rules pursuant to Code chapter 17A to specify what constitutes
26 a default of the agreement.

27 Upon completion of a child care facility project, the
28 bill requires the developer to have its project audited by
29 an independent certified public accountant licensed in this
30 state. The EDA will then review the audit, verify the amount
31 of workforce child care facility tax credits the developer may
32 claim, and issue a tax credit certificate for that amount.
33 The bill limits the amount of tax incentives for child care
34 facility projects at \$3 million in the aggregate per fiscal
35 year.

1 The bill specifies that of the maximum tax incentive amounts
2 available each fiscal year, 60 percent shall be awarded to
3 small cities. If the amount of tax credits reserved for small
4 cities has not been distributed by May 1 of any calendar year,
5 the remaining reserved tax credits shall be available to any
6 other eligible applicants.

7 The maximum amount of tax incentives that may be awarded by
8 the EDA to a developer for a child care facility project shall
9 not exceed \$200,000.

10 The bill provides two different tax incentives. The first
11 is a refund of the sales and use taxes paid that are directly
12 related to the child care facility project. The second is
13 a workforce child care facility investment tax credit in
14 an amount not to exceed 20 percent of the qualifying new
15 investment of the child care facility project in a small
16 city, and 10 percent of the qualifying new investment of the
17 child care facility project in any other area. "Qualifying
18 new investment" means the costs directly related to the
19 construction, repair, rehabilitation, or redevelopment of the
20 child care facility.

21 The workforce child care facility investment tax credit may
22 be claimed against the individual income tax, the corporate
23 income tax, the franchise tax, the insurance companies tax, and
24 the moneys and credits tax. To claim a tax credit, a taxpayer
25 must include a tax credit certificate with the taxpayer's
26 tax return. The credit is nonrefundable but may be credited
27 to the tax liability for five years. The tax credit may be
28 transferred to any person or entity, and the bill establishes
29 procedures for the proper transfer of the tax credit. For
30 purposes of the individual and corporate income taxes and the
31 franchise tax, when the tax basis of property is increased as
32 a result of qualifying new investment, that tax basis shall
33 be reduced by the amount of the workforce child care facility
34 investment tax credit issued under the program.

35 The bill applies to tax years beginning on or after January

H.F. 362

1 1, 2022, for qualifying new investments occurring on or after
2 that date.