

**House Study Bill 1 - Introduced**

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CHAIRPERSON HEIN)

**A BILL FOR**

1 An Act relating to tax credits awarded by the economic  
2 development authority for specific capital contributions  
3 made to certified rural business growth funds for investment  
4 in qualified businesses.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 15.281 Short title.

2 This part shall be known and may be cited as the "*Iowa Rural*  
3 *Development Tax Credit Program*".

4 Sec. 2. NEW SECTION. 15.282 Definitions.

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

6 1. "*Affiliate*" means a person that directly, or indirectly  
7 through one or more intermediaries, controls, is controlled  
8 by, or is under common control with another person. A person  
9 is controlled by another person if the controlling person  
10 holds, directly or indirectly, the majority voting or ownership  
11 interest in the controlled person or has control, by contract  
12 or by law, over the day-to-day operations of the controlled  
13 person.

14 2. "*Authority*" means the economic development authority  
15 created in section 15.105.

16 3. "*Closing date*" means the date on which a rural business  
17 growth fund completes collection of all contributions and  
18 investments and submits all required documentation to the  
19 authority pursuant to section 15.283, subsection 7, paragraph  
20 "c".

21 4. "*Credit-eligible capital contribution*" means an investment  
22 of cash by a person in a rural business growth fund that is  
23 eligible for a tax credit certificate issued by the authority  
24 pursuant to section 15.284, subsection 1. The cash investment  
25 shall purchase either of the following:

26 a. An equity interest in the growth fund.

27 b. A debt instrument, at par value or premium, issued by the  
28 growth fund that has a maturity date at least six years after  
29 the growth fund's closing date.

30 5. "*Eligible investment authority*" means the amount stated  
31 on the certification notice the authority issues pursuant to  
32 section 15.283, subsection 7, paragraph "a". At least sixty  
33 percent of a growth fund's eligible investment authority shall  
34 be comprised of credit-eligible capital contributions.

35 6. "*Employee*" means a natural person who is employed in this

1 state by a qualified business and who is either salaried, works  
2 a minimum of thirty-five hours per week, or another period of  
3 time generally accepted by custom, industry, or practice as  
4 full-time employment.

5 7. "*Equity holder*" means a person that makes an equity  
6 investment in a rural business growth fund.

7 8. "*Growth investment*" means any capital or equity  
8 investment a growth fund makes in a qualified business, or any  
9 loan from a growth fund to a qualified business with a stated  
10 maturity at least one year after the date of issuance.

11 9. "*Jobs created*" means the number of new employees at a  
12 qualified business, after an initial growth investment, at  
13 the end of each subsequent calendar year. This number is  
14 calculated annually by adding together the number of employees  
15 at the qualified business on the last day of each calendar  
16 month and dividing by twelve, then subtracting the number of  
17 employees at the qualified business on the date the day before  
18 the date of the initial growth investment. If the resulting  
19 total is less than zero, the jobs created is equal to zero.

20 10. "*Jobs retained*" means the number of employees at a  
21 qualified business the day before the date of an initial growth  
22 investment that the qualified business's chief executive  
23 officer or similar officer certifies as being positions located  
24 in this state that would have been eliminated but for the  
25 initial growth investment.

26 11. "*Located in*" means the place or places at which a  
27 business's operations are located and where at least sixty  
28 percent of the business's employees work, or where employees  
29 that are paid at least sixty percent of the business's payroll  
30 work.

31 12. "*Program*" means the Iowa rural development tax credit  
32 program administered under this part.

33 13. "*Qualified business*" means any business within this  
34 state that has fewer than two hundred fifty employees,  
35 including ostensible subcontractors pursuant to 13 C.F.R.

1 §121.103(h).

2 14. *“Revenue”* means the total state and local income  
3 produced by a rural business growth fund’s economic activity.

4 15. *“Rural business growth fund”* or *“growth fund”* means a  
5 person, or an affiliate of a person, certified by the authority  
6 pursuant to section 15.283, subsection 7, paragraph *“a”*.

7 16. *“Within this state”* means in the state of Iowa, or an  
8 out-of-state business that has agreed to use a proposed growth  
9 investment to become a qualified business within one hundred  
10 eighty days of receiving the growth investment.

11 Sec. 3. NEW SECTION. 15.283 **Application and agreement.**

12 1. The authority shall begin accepting program applications  
13 on January 3, 2022. An application is deemed received based  
14 on the date and time stamp that shall be generated by the  
15 authority upon receipt of the application. Applications  
16 received by the authority on the same day shall be deemed to  
17 have been received simultaneously.

18 2. A person seeking certification as a rural business  
19 growth fund shall apply to the authority in the form and manner  
20 prescribed by the authority. The application must include all  
21 of the following:

22 *a.* The eligible investment authority sought by the  
23 applicant.

24 *b.* A copy of the applicant’s, or an affiliate of the  
25 applicant’s, license as a rural business investment company  
26 as defined under 7 U.S.C. §2009cc(14), or license as a small  
27 business investment company under 15 U.S.C. §681.

28 *c.* Documentation as required by the authority to establish  
29 that at least one principal of the applicant has been an  
30 officer or an employee of the rural business investment  
31 company, the small business investment company, or an affiliate  
32 thereof, for a minimum of four years prior to the date of  
33 application.

34 *d.* A revenue impact assessment for the applicant’s proposed  
35 growth investments as determined by an econometric analysis

1 conducted by a nationally recognized third-party independent  
2 econometric firm. The revenue impact assessment must provide  
3 an analysis of the applicant's proposed growth investments over  
4 the ten consecutive years following the date the applicant's  
5 application is submitted to the authority, and must demonstrate  
6 that there will be a positive revenue impact on this state  
7 that exceeds the cumulative amount of tax credits, that if the  
8 application is approved, may be issued by the authority to the  
9 rural business growth fund's investors.

10 e. The number of jobs created and the number of jobs  
11 retained assumed in the revenue impact assessment required by  
12 paragraph "d".

13 f. A signed affidavit from each investor that identifies  
14 the investor and the amount of the credit-eligible capital  
15 contribution that the investor has committed to the applicant's  
16 proposed growth fund.

17 g. A nonrefundable application fee of five thousand dollars.  
18 All application fees submitted to the authority pursuant to  
19 this paragraph shall be used by the authority to administer  
20 this part.

21 3. The authority shall review and make a determination  
22 to approve or deny each application within the time frame  
23 adopted by rule by the authority. The authority shall review  
24 applications on a first-come, first-served basis as determined  
25 pursuant to subsection 1.

26 4. The authority shall not approve more than one hundred  
27 million dollars in eligible investment authority and not  
28 more than sixty million dollars in credit-eligible capital  
29 contributions under the program. If approved applications  
30 that are simultaneously received would collectively exceed the  
31 maximum limit on eligible investment authority or the maximum  
32 on credit-eligible capital contributions, the authority shall  
33 proportionally reduce the growth fund's eligible investment  
34 authority and credit-eligible capital contributions for each  
35 of the simultaneous applications as necessary to comply with

1 the maximum limits.

2 5. The authority shall reject an application for any of the  
3 following reasons:

4 a. The applicant failed to comply with any of the  
5 requirements of subsection 2.

6 b. The authority has already approved the maximum eligible  
7 investment authority or the maximum credit-eligible capital  
8 contributions pursuant to subsection 4.

9 6. a. If the authority rejects an application, the  
10 authority shall send a notice of rejection to the applicant and  
11 provide a reason for the rejection.

12 b. If the authority has rejected an application on any  
13 grounds other than subsection 5, paragraph "b", the applicant  
14 may provide additional information to the authority to cure  
15 the defects in the application. All additional information  
16 must be received by the authority within fifteen business days  
17 from the date the authority sent the notice of rejection to  
18 the applicant. The authority shall review and reconsider,  
19 within the time frame adopted by rule by the authority, any  
20 application for which additional information is provided within  
21 the fifteen business days. If an application is approved by  
22 the authority after review and reconsideration, the application  
23 shall be considered complete as of its original date of  
24 submission.

25 c. If an applicant does not submit additional information  
26 within fifteen business days from the date the authority sent  
27 the applicant the notice of rejection, the applicant may submit  
28 a new application at any time pursuant to subsection 2 and the  
29 application shall be reviewed by the authority pursuant to  
30 subsection 3.

31 7. a. If the authority approves an application, the  
32 authority shall send a notice to the applicant certifying all  
33 of the following:

34 (1) The applicant as a rural business growth fund.

35 (2) The growth fund's eligible investment authority and

1 required credit-eligible contributions.

2 (3) The required number of jobs created and the required  
3 number of jobs retained based on the number submitted in the  
4 applicant's application, prorated if the growth fund's eligible  
5 investment authority is reduced pursuant to subsection 4.

6 b. Within forty-five calendar days of the date the authority  
7 sent the notice of certification pursuant to paragraph "a",  
8 the rural business growth fund shall comply with all of the  
9 following requirements:

10 (1) Collect all credit-eligible capital contributions  
11 from each investor whose affidavit was included in the growth  
12 fund's application. If the growth fund's requested eligible  
13 investment authority has been proportionally reduced pursuant  
14 to subsection 4, each investor's required credit-eligible  
15 capital contribution shall be reduced by the same proportion.

16 (2) Collect one or more equity investments contributed  
17 directly or indirectly by affiliates of the growth fund,  
18 including employees and principals of such affiliates, that  
19 must equal at least ten percent of the growth fund's eligible  
20 investment authority.

21 (3) If the contributions and investments collected under  
22 subparagraphs (1) and (2) do not equal the growth fund's total  
23 eligible investment authority, collect one or more investments  
24 of cash that, when added to the contributions and investments  
25 collected under subparagraphs (1) and (2), equal the growth  
26 fund's total eligible investment authority.

27 c. Within sixty-five calendar days of the date the authority  
28 sent the notice of certification pursuant to paragraph "a",  
29 the rural business growth fund shall comply with all of the  
30 following requirements:

31 (1) Submit documentation to the authority sufficient to  
32 prove to the satisfaction of the authority that the growth fund  
33 has collected amounts described in paragraph "b".

34 (2) Submit documentation to the authority that identifies  
35 all affiliates of an investor described in paragraph "b",

1 subparagraph (1), that may be eligible to claim a tax credit  
2 issued by the authority pursuant to section 15.284, subsection  
3 1.

4 8. If a growth fund fails to comply with subsection 7,  
5 paragraph "b" or "c", the growth fund's certification shall  
6 lapse. Any eligible investment authority and credit-eligible  
7 capital contributions that lapse pursuant to this subsection  
8 shall not count toward the maximum limits on eligible  
9 investment authority and credit-eligible capital contributions  
10 pursuant to subsection 4. If a growth fund's eligible  
11 investment authority lapses pursuant to this subsection, the  
12 authority shall first award the lapsed eligible investment  
13 authority pro rata to each rural business growth fund that  
14 was awarded less than the eligible investment authority that  
15 the rural business growth fund sought in the growth fund's  
16 application. A rural business growth fund that is awarded  
17 lapsed eligible investment authority pro rata must comply with  
18 the requirements of subsection 7, paragraph "b", as related to  
19 the additional eligible investment authority. The authority  
20 may award any remaining lapsed eligible investment authority to  
21 new applicants until the maximum limits on eligible investment  
22 authority and credit-eligible capital contributions pursuant  
23 to subsection 4 are met.

24 9. After a growth fund's successful submission to the  
25 authority of the required documentation pursuant to subsection  
26 7, paragraph "c", the growth fund shall enter into an agreement  
27 with the authority that specifies the requirements that must be  
28 met for successful completion of the program. At a minimum,  
29 the agreement shall contain provisions addressing all of the  
30 following:

- 31 a. The legal name of the growth fund.
- 32 b. The growth fund's closing date.
- 33 c. The growth fund's eligible investment authority as  
34 certified by the authority.
- 35 d. Each investor of the growth fund and each investor's



1 credit-eligible capital contribution.

2 e. The minimum number of jobs that must be created and the  
3 minimum number of jobs that must be retained as a result of  
4 the growth fund's growth investments to avoid paying state  
5 reimbursement pursuant to section 15.288.

6 f. Revocation and recapture of tax credits pursuant to  
7 section 15.285.

8 g. Any terms deemed necessary by the authority to effect  
9 compliance with the program requirements pursuant to this part.

10 Sec. 4. NEW SECTION. 15.284 Tax credits.

11 1. After an agreement is executed pursuant to section  
12 15.283, subsection 9, the authority shall issue a tax credit  
13 certificate to each investor whose affidavit was included  
14 in the growth fund's application and whose credit-eligible  
15 capital contribution was collected pursuant to section  
16 15.283, subsection 7, paragraph "b", subparagraph (1). The  
17 tax credit certificate shall specify the amount of the  
18 tax credit allocated to that investor as a result of the  
19 investor's credit-eligible capital contribution. The tax  
20 credit allocated to any one investor shall be equal to the  
21 investor's credit-eligible capital contribution to the growth  
22 fund. The tax credit certificate shall contain the taxpayer's  
23 name, address, tax identification number, the amount of the tax  
24 credit the eligible taxpayer may claim against the insurance  
25 premium tax and insurance retaliatory premium tax imposed  
26 in chapter 432, the name of the rural business growth fund  
27 associated with the tax credit, and any other information  
28 required by the department of revenue.

29 2. Twenty-five percent of a tax credit issued to an investor  
30 pursuant to subsection 1 may be used in each taxable year  
31 beginning in the calendar year following the second anniversary  
32 of the closing date of the growth fund in which the investor  
33 made the credit-eligible capital contribution, and concluding  
34 in the calendar year following the sixth anniversary of that  
35 closing date, exclusive of the amount of tax credit carried

1 forward pursuant to subsection 4.

2 3. a. A tax credit issued under this part is not  
3 refundable and shall not be sold, transferred, or allocated  
4 by the investor to any person other than an affiliate of the  
5 investor that was an affiliate at the time of the growth fund's  
6 submission of the investor's affidavit pursuant to subsection  
7 15.283, subsection 2, paragraph "f".

8 b. Within ninety calendar days of the sale, transfer, or  
9 allocation of a tax credit, the affiliate shall submit the tax  
10 credit certificate to the department of revenue along with a  
11 statement containing the affiliate's name, tax identification  
12 number, address, and any other information required by the  
13 department of revenue.

14 c. Within thirty calendar days of receiving the tax credit  
15 certificate and the affiliate's statement, the department of  
16 revenue shall issue the affiliate a replacement tax credit  
17 certificate. The replacement tax credit certificate must  
18 contain all of the information required for the original tax  
19 credit certificate and must have the same expiration date that  
20 appeared on the original tax credit certificate.

21 4. To claim a tax credit under this section, a taxpayer  
22 shall submit the tax credit certificate with the taxpayer's  
23 tax return for each taxable year in which the tax credit is  
24 claimed. Any tax credit in excess of the taxpayer's tax  
25 liability for the tax year may be carried forward to the  
26 taxpayer's tax liability for subsequent years until the tax  
27 credit is depleted.

28 **Sec. 5. NEW SECTION. 15.285 Revocation and recapture of tax**  
29 **credits.**

30 1. The authority shall recapture any tax credits used by  
31 a taxpayer and shall revoke any tax credits issued pursuant  
32 to section 15.284, subsection 1, if, before a rural business  
33 growth fund exits the program pursuant to section 15.287, any  
34 of the following occur:

35 a. The growth fund cannot provide documentation to the

1 authority to substantiate to the satisfaction of the authority  
2 all of the following:

3 (1) That the growth fund, within two years after the growth  
4 fund's closing date, has invested a minimum of two-thirds of  
5 the growth fund's eligible investment authority in growth  
6 investments.

7 (2) That the growth fund, within three years after the  
8 growth fund's closing date, has invested one hundred percent  
9 of the growth fund's eligible investment authority in growth  
10 investments.

11 (3) That the growth fund, after investing one hundred  
12 percent of the growth fund's eligible investment authority  
13 in growth investments within three years after the growth  
14 fund's closing date, has maintained growth investments equal to  
15 one hundred percent of the growth fund's eligible investment  
16 authority at all times up to the sixth anniversary after the  
17 growth fund's closing date. For purposes of this subparagraph,  
18 a growth investment is maintained even if it is sold or repaid,  
19 as long as the growth fund reinvests an amount equal to the  
20 growth investment returned or recovered from the original  
21 growth investment, exclusive of any profits realized, in other  
22 growth investments in this state within the twelve consecutive  
23 months immediately after the date of the return or recovery  
24 of such growth investment. Amounts received periodically  
25 by a growth fund are deemed continuously invested in growth  
26 investments if the amounts are reinvested by the growth fund in  
27 one or more qualified businesses by the end of the following  
28 calendar year.

29 *b.* The growth fund makes a growth investment in a qualified  
30 business that directly, or indirectly through an affiliate,  
31 owns, has the right to acquire an ownership interest in, makes  
32 a loan to, or makes an investment in, the growth fund, an  
33 affiliate of the growth fund, or an investor in the growth  
34 fund. This paragraph shall not apply to investments in  
35 publicly traded securities by a qualified business, or to an

1 owner or an affiliate of the qualified business. For purposes  
2 of this paragraph, a growth fund shall not be considered an  
3 affiliate of a qualified business solely because of the growth  
4 fund's growth investment in the qualified business.

5 c. The growth fund, before exiting the program pursuant to  
6 section 15.287, makes a distribution or payment that results  
7 in the growth fund having less than one hundred percent of its  
8 initial investment authority invested in growth investments in  
9 this state, available for growth investments, or held in cash  
10 and marketable securities.

11 2. The maximum amount of a growth investment in a qualified  
12 business, including any amounts invested in affiliates of the  
13 qualified business, that a growth fund may count toward the  
14 growth fund's satisfaction of the requirements pursuant to  
15 subsection 1, paragraph "a", subparagraphs (2) and (3), is  
16 the greater of twenty percent of the growth fund's eligible  
17 investment authority and five million dollars, excluding any  
18 amounts reinvested in a qualified business.

19 3. Before revoking or recapturing a tax credit, the  
20 authority shall provide notice to the growth fund of the reason  
21 for the pending revocation or recapture. The growth fund shall  
22 have ninety calendar days after the date the authority sends  
23 the notice to cure to the satisfaction of the authority the  
24 issues identified in the notice. Failure of the growth fund to  
25 satisfactorily cure the issues in the notice shall result in  
26 revocation or recapture of the tax credit.

27 4. The authority shall not revoke or recapture a tax credit  
28 for any action of a growth fund that occurs after the growth  
29 fund has exited the program pursuant to section 15.287. This  
30 subsection shall not prohibit the authority from revoking or  
31 recapturing a tax credit due to an action of a growth fund  
32 pursuant to subsection 1 that occurs before the date the growth  
33 fund exits the program, even if the growth fund's action is  
34 discovered after the date the growth fund exits the program.

35 Sec. 6. NEW SECTION. 15.286 Annual report.

1 On or before March 31, unless a growth fund has exited the  
2 program pursuant to section 15.287, each growth fund shall  
3 submit an annual report to the authority in the form and manner  
4 the authority prescribes that covers the preceding calendar  
5 year. The report must include each of the growth fund's growth  
6 investments and must contain all of the following information:

7 1. Financial statements that provide evidence of each  
8 growth investment.

9 2. Evidence that the growth fund is in compliance with  
10 applicable investment requirements pursuant to section 15.285,  
11 subsection 1, paragraph "a", subparagraphs (1), (2), and (3).

12 3. The name, location, and industry for each qualified  
13 business that received a growth investment, and evidence that  
14 the business met the requirements to be a qualified business at  
15 the time the growth investment was made.

16 4. The number of employees at each qualified business on  
17 the date of the growth fund's initial growth investment in the  
18 qualified business.

19 5. The number of jobs created at each qualified business and  
20 the average annual salary for the jobs created.

21 6. The number of jobs retained at each qualified business  
22 and the average annual salary for the jobs retained. The  
23 number of jobs retained at a qualified business may not exceed  
24 the number of jobs retained at the same qualified business on  
25 the first annual report submitted by the growth fund.

26 7. Any other information the authority requires.

27 Sec. 7. NEW SECTION. 15.287 **Exiting the program.**

28 1. On or after the sixth anniversary of a rural business  
29 growth fund's closing date, in the form and manner the  
30 authority prescribes, the growth fund may apply to the  
31 authority to exit the program. The growth fund's application  
32 must include the state reimbursement calculation pursuant to  
33 section 15.288.

34 2. The growth fund shall be eligible to exit the program  
35 if a tax credit associated with the growth fund has not been

1 revoked or recaptured pursuant to section 15.285.

2 3. Within the time frame adopted by rule by the authority,  
3 the authority shall send notice to the growth fund of the  
4 authority's determination regarding the growth fund's  
5 application and confirmation of the state reimbursement the  
6 growth fund owes pursuant to section 15.288, if any. If the  
7 authority denies the growth fund's application, the notice  
8 shall include the reasons for the denial. If the authority  
9 approves the growth fund's application, the growth fund is  
10 deemed to have exited the program on the date the authority  
11 sends notice to the growth fund. If the growth fund owes the  
12 state reimbursement, the growth fund shall be prohibited from  
13 making any distributions to any equity holders of the fund  
14 until the growth fund has remitted the state reimbursement  
15 amount to the authority. All state reimbursement amounts  
16 remitted to the authority shall be deposited in the general  
17 fund of the state.

18 Sec. 8. NEW SECTION. 15.288 State reimbursement  
19 calculation.

20 1. A state reimbursement shall be calculated any time a  
21 rural business growth fund exits the program or any time a  
22 rural business growth fund proposes to make a distribution to  
23 the growth fund's equity holders. The state reimbursement  
24 shall equal the proposed distribution multiplied by one minus a  
25 fraction that is composed of the following:

26 a. The numerator shall be the aggregate number of jobs  
27 created plus the number of jobs retained as reported pursuant  
28 to section 15.286, subsections 5 and 6, with the following  
29 modifiers.

30 (1) Any job created or retained at a qualified business  
31 located in a rural area shall be counted as one job.

32 (2) Any job created or retained at a qualified business  
33 located in a rural area and in a county with a population of  
34 less than thirty thousand, as determined by the most recent  
35 population estimates issued by the United States bureau of

1 census, shall be counted as one and one-half of a job.

2 (3) Any job created or retained at a qualified business  
3 located in an area other than an area in subparagraph (1) or  
4 (2) shall be counted as one-half of a job.

5 b. The denominator shall be the number of jobs created plus  
6 the number of jobs retained as stated in the certification  
7 pursuant to section 15.283, subsection 7, paragraph "a",  
8 subparagraph (3).

9 2. If the fraction is greater than one hundred percent, the  
10 growth fund shall not owe state reimbursement.

11 3. The authority may adopt by rule additional options  
12 for the state reimbursement calculation that are equivalent  
13 to job creation and job retention to measure a growth fund's  
14 growth investments impact on economic activity at a qualified  
15 business.

16 4. For purposes of this section, "rural area" means the  
17 same as defined in 7 C.F.R. §4279.108(c), in which a business  
18 must be located to qualify as an eligible borrower for a United  
19 States department of agriculture business and industry loan  
20 pursuant to 7 C.F.R. §4279.108.

21 **Sec. 9. NEW SECTION. 15.289 Remedies.**

22 The remedies for a breach or default of any of the terms of  
23 this part by a rural business growth fund shall be revocation  
24 or recapture of tax credits pursuant to section 15.285 and  
25 remission of the state reimbursement pursuant to section  
26 15.288.

27 **Sec. 10. NEW SECTION. 15.290 Rules.**

28 The authority, in conjunction with the department of  
29 revenue, shall adopt rules pursuant to chapter 17A as necessary  
30 for the implementation and administration of this part.

31 **Sec. 11. NEW SECTION. 432.12N Rural development tax  
32 credits.**

33 The taxes imposed under this chapter shall be reduced by a  
34 rural development tax credit allowed under section 15.284 for a  
35 credit-eligible capital contribution to a rural business growth

1 fund.

2

EXPLANATION

3

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

4

5 This bill relates to tax credits awarded by the economic  
6 development authority for specific capital contributions made  
7 to certified rural business growth funds for investment in  
8 qualified businesses.

9 The bill directs the economic development authority  
10 (authority) to begin accepting Iowa rural development tax  
11 credit program (program) applications beginning January 3,  
12 2022.

13 The bill provides that a person seeking certification  
14 as a rural business growth fund (growth fund) must apply  
15 to the authority and that the application must include the  
16 eligible investment authority sought by the applicant, a copy  
17 of the applicant's license as a rural business investment  
18 company under 7 U.S.C. §2009cc(14) or as a small business  
19 investment company under 15 U.S.C. §681, documentation that  
20 establishes that at least one principal of the applicant  
21 has been an officer or an employee of the rural business  
22 investment company, the small business investment company,  
23 or an affiliate thereof, for a minimum of four years prior  
24 to the date of application, a revenue impact assessment for  
25 the applicant's proposed growth investments as determined by  
26 an econometric analysis, the proposed number of jobs created  
27 and the number of jobs retained, a signed affidavit from each  
28 investor that states the amount of the credit-eligible capital  
29 contribution that the investor has committed to the applicant's  
30 proposed growth fund, and a nonrefundable \$5,000 application  
31 fee. The bill defines "credit-eligible capital contribution"  
32 as an investment of cash by a person in a growth fund that  
33 is eligible for a tax credit issued by the authority. The  
34 investment must be used to purchase either an equity interest  
35 in the growth fund or a debt instrument, at par value or



1 premium, issued by the growth fund that has a maturity date  
2 at least six years after the growth fund's closing date.  
3 "Eligible investment authority" is defined in the bill as the  
4 amount of investment authority that the authority certifies for  
5 a specific growth fund.

6 The bill requires the authority to review each application  
7 on a first-come, first-served basis and to approve or deny  
8 each application within the time frame adopted by rule by the  
9 authority. The authority cannot approve more than \$100 million  
10 in eligible investment authority and not more than \$60 million  
11 in credit-eligible capital contributions.

12 The authority must reject an application if the applicant  
13 fails to submit any of the required information, or if the  
14 authority has already approved the maximum eligible investment  
15 authority or the maximum credit-eligible capital contributions.  
16 If the authority rejects an application, the authority must  
17 send a notice to the applicant, and provide a reason for the  
18 rejection. If an application has been rejected because the  
19 applicant failed to submit all of the required information, the  
20 applicant has 15 days to cure any defects in the application.  
21 The authority must review and reconsider, within the time  
22 frame adopted by rule by the authority, any application which  
23 is cured within the 15 business days. If an application  
24 is approved by the authority after reconsideration, the  
25 application is considered complete as of its original date of  
26 submission.

27 If the authority approves an application, it must send a  
28 notice to the applicant certifying the applicant as a rural  
29 business growth fund, the growth fund's eligible investment  
30 authority, and the required number of jobs to be created and  
31 retained based on the number submitted in the applicant's  
32 application. Within 45 days of the date the authority sent  
33 the certification notice, the growth fund is required to  
34 collect all credit-eligible capital contributions from each  
35 investor whose affidavit was included in the growth fund's

1 application, collect one or more equity investments contributed  
2 directly or indirectly by affiliates of the growth fund,  
3 including employees and principals of such affiliates, that  
4 equal at least 10 percent of the growth fund's eligible  
5 investment authority, and, if applicable, collect one or more  
6 investments of cash that when added to the credit-eligible  
7 capital contributions and the equity investments equal the  
8 growth fund's eligible investment authority. Within 65 days  
9 of the date the authority sent the certification notice, the  
10 growth fund must submit documentation to the authority as  
11 detailed in the bill. If the growth fund fails to comply with  
12 the collection and documentation requirements, all eligible  
13 investment authority and credit-eligible capital contributions  
14 lapse. Authority and contributions that lapse do not count  
15 toward the maximum limits on eligible investment authority and  
16 credit-eligible capital contributions and may be awarded by the  
17 authority as outlined in the bill.

18 After a growth fund complies with the collection and  
19 documentation requirements, the fund must enter into an  
20 agreement with the authority that specifies the requirements  
21 that must be met for successful completion of the program. The  
22 minimum requirements for the agreement are detailed in the  
23 bill.

24 After the agreement is executed, the authority must issue  
25 a tax credit certificate to each investor whose affidavit  
26 was included in the growth fund's application and whose  
27 credit-eligible capital contribution was collected by the  
28 growth fund. The certificate must specify the amount of tax  
29 credit allocated to that investor and the amount of the tax  
30 credit the eligible taxpayer may claim against the insurance  
31 premium tax and insurance retaliatory premium tax imposed in  
32 Code chapter 432. An investor may use 25 percent of the tax  
33 credit in each taxable year beginning in the calendar year  
34 following the second anniversary of the growth fund's closing  
35 date and ending in the calendar year following the sixth

1 anniversary of the closing date. Any tax credit in excess of  
2 the taxpayer's tax liability for a tax year may be carried  
3 forward to the taxpayer's tax liability for subsequent tax  
4 years until the tax credit is depleted.

5 The tax credits are not refundable and cannot be sold,  
6 transferred, or allocated by the investor to any person other  
7 than an affiliate of the investor. The affiliate must submit  
8 the tax credit certificate within 90 days to the department  
9 of revenue (department) and the department must issue the  
10 affiliate a replacement tax credit certificate with the same  
11 expiration date that appeared on the original tax credit  
12 certificate.

13 The authority must revoke or recapture a tax credit if,  
14 before a growth fund exits the program, the growth fund  
15 cannot provide documentation to substantiate that the growth  
16 fund, within two years after the growth fund's closing date,  
17 has invested a minimum of two-thirds of the growth fund's  
18 investment authority in growth investments; that the growth  
19 fund, within three years after the growth fund's closing date,  
20 has invested 100 percent of the growth fund's investment  
21 authority in growth investments; that the growth fund, after  
22 investing 100 percent of the growth fund's investment authority  
23 in growth investments within three years after the growth  
24 fund's closing date, has maintained growth investments equal to  
25 100 percent of its investment authority at all times up to the  
26 sixth anniversary after the growth fund's closing date. The  
27 bill specifies that amounts received periodically by a growth  
28 fund are deemed continuously invested in growth investments  
29 if the amounts are reinvested by the growth fund in one or  
30 more qualified businesses by the end of the following calendar  
31 year. The bill details the other requirements and prohibitions  
32 related to revocation or recapture of tax credits by the  
33 authority.

34 On or after the sixth anniversary of a growth fund's closing  
35 date, the growth fund may apply to the authority to exit the

1 program. A growth fund is eligible to exit the program if a  
2 tax credit associated with the growth fund has not been revoked  
3 or recaptured. The growth fund's application to exit the  
4 program must include the state reimbursement calculation. The  
5 state reimbursement owed by a rural business growth fund to  
6 the authority is calculated as detailed in the bill. Within  
7 the time frame adopted by rule by the authority, the authority  
8 must send notice to the growth fund of the authority's  
9 determination regarding the application and confirmation of  
10 the state reimbursement owed by the growth fund. If the  
11 authority approves the application, the growth fund is deemed  
12 to have exited the program on the date the notice is sent by  
13 the authority to the growth fund. If the growth fund owes the  
14 state reimbursement, the growth fund is prohibited from making  
15 any distributions to equity holders of the fund until the  
16 state reimbursement amount has been remitted to the authority.  
17 "Equity holder" is defined in the bill as a person that makes  
18 a credit-eligible capital contribution, an equity investment,  
19 or a cash investment in a rural business growth fund. The bill  
20 specifies that all state reimbursement amounts remitted to the  
21 authority shall be deposited in the general fund of the state.

22 Unless a growth fund has exited the program, the growth  
23 fund must submit an annual report to the authority that covers  
24 the preceding calendar year. The report must include the  
25 documentation and information as detailed in the bill.

26 The bill provides that the only remedies for a breach or  
27 default of any of the terms of the program by a growth fund are  
28 revocation or recapture of tax credits and the collection of  
29 the state reimbursement as detailed in the bill.

30 The bill requires the authority, in conjunction with the  
31 department of revenue, to adopt rules as necessary to implement  
32 and administer the program.