State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE NO. 3143

February 18, 2008
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The bill was read for the first time and referred to the Committee on Biosciences and Emerging Technology
February 21, 2008
Committee Recommendation and Adoption of Report:
To Pass and re-referred to the Committee on Finance

A bill for an act

relating to state government finance; allowing an individual income and corporate franchise credit for investment in Minnesota high technology businesses; reducing an appropriation; amending Minnesota Statutes 2006, section 290.06, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2006, section 290.06, is amended by adding a subdivision to read:

Subd. 34. **Investment tax credit.** (a) A credit is allowed against the tax imposed by this chapter for a qualified taxpayer's investment in a qualified new business venture. The credit equals 25 percent of the taxpayer's investment made in the business, but may not exceed the lesser of:

(1) the liability for tax under this chapter, including the alternative minimum taxes in sections 290.091 and 290.0921;

(2) $25,000 for an individual not part of a partnership; or

(3) $300,000 for a pass-through entity or C corporation.

(b) For purposes of this subdivision, "qualified taxpayer" means:

(1) an accredited investor within the meaning of Regulation D of the Securities and Exchange Commission, Code of Federal Regulations, title 17, section 230.501(a), whether part of a pass-through entity or not; and

(2) an accredited investor who does not own, control, or hold power to vote 20 percent or more of the outstanding securities of the qualified business venture in which the eligible investment is proposed.

(c) For purposes of this paragraph, "commissioner" means the commissioner of employment and economic development. Qualified taxpayers must apply to the commissioner for certification. The application must be in the form and made under the procedures specified by the commissioner. The commissioner may provide certificates entitling qualified taxpayers to tax credits under this subdivision. The maximum amount of credits for which the commissioner may issue certificates in each taxable year is $3,000,000. In awarding certificates under this paragraph, the commissioner must award them to qualified taxpayers in the order in which the applications are received.

(d) Each pass-through entity must provide each investor a statement indicating the investor's share of the credit amount certified to the pass-through entity under paragraph (c) based on its share of the pass-through entity's assets. The credit shall not exceed $25,000 for each individual part of a pass-through entity.

(e) If the amount of the credit under this subdivision in any taxable year exceeds the limitation under paragraph (a), clause (1), the excess is a credit carryover to each of the ten succeeding years but may not exceed $25,000 for an individual not part of a partnership and $300,000 for a pass-through entity or C corporation. The entire amount of the excess unused credit must be carried first to the earliest of the taxable years to which the credit may be carried, and then to each successive year to which the credit may be carried. The amount of the unused credit that may be added under this paragraph may not exceed the taxpayer's liability for tax less the credit for the taxable year.

(f) For purposes of this paragraph, "qualified high technology field" includes, but is not limited to, aerospace, agricultural processing, alternative energy, biotechnology, defense, drug delivery, environmental engineering, food technology, cellulosic ethanol, information technology, green manufacturing, materials science technology, medical devices, nanotechnology, pharmaceutical technology, and telecommunications. Unless otherwise provided under the rules of the Department of Employment and Economic Development, a business is a qualified business venture for purposes of this subdivision only if the business satisfies all of the following conditions:

(1) the business has its headquarters in Minnesota;

(2) at least 51 percent of the business's employees are employed in Minnesota;

(3) the business is engaged in, or is committed to engage in:

(i) using advanced technology to add value to a product, process, or service in a qualified high technology field;

(ii) conducting research in and development of a product, process, or service in a qualified high technology field; or

(iii) developing a new product, process, or service in a qualified high technology field;

(4) the business is not engaged in real estate development, insurance, banking, lending, lobbying, political consulting, information technology consulting, wholesale or retail trade, leisure, hospitality, transportation, construction, ethanol production from corn, or professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants;

(5) the business has fewer than 25 employees;

(6) the business has not been in operation for more than ten consecutive years;

(7) the business has not received more than $1,000,000 in investments that have qualified for and received tax credits under this section;

(8) the business has less than $1,000,000 in annual gross sales receipts;

(9) the business is not a subsidiary or an affiliate of a business that employs more than 100 employees or has gross sales receipts for the previous year of more than $1,000,000, computed by aggregating all of the employees and gross sales receipts of the business entities affiliated with the business; and

(10) the business has not received private equity investments of more than $2,000,000.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2007.

Sec. 2. **APPROPRIATION REDUCTION.**

The fiscal year 2009 appropriation to the Department of Employment and Economic Development in Laws 2007, chapter 135, article 1, section 3, is reduced by $3,000,000. The commissioner of employment and economic development may reduce appropriations as needed in the department to comply with this section.