

FILED FEB 7 2005

SENATE FILE

114

BY COMMITTEE ON ECONOMIC GROWTH

(SUCCESSOR TO SSB 1064)

Passed Senate, Date 2-10-05 Passed House, Date 3-7-05  
Vote: Ayes 49 Nays 0 Vote: Ayes 99 Nays 0  
Approved 3/14/05

**A BILL FOR**

1 An Act relating to tax credit certificates issued by the Iowa  
2 capital investment board and providing an effective date.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SC 114

1 Section 1. Section 15E.63, subsections 6 and 7, Code 2005,  
2 are amended to read as follows:

3 6. The board shall, in cooperation with the department of  
4 revenue, establish criteria and procedures for the allocation  
5 and issuance of tax credits to designated investors by means  
6 of certificates issued by the board. The criteria shall  
7 include the contingencies that must be met for a certificate  
8 to be redeemable by a designated investor or transferee in  
9 order to receive a tax credit. The contingencies to  
10 redemption shall be tied to the scheduled rates of return and  
11 ~~scheduled-redemptions~~ of equity interests purchased by  
12 designated investors in the Iowa fund of funds. The  
13 procedures established by the board, in cooperation with the  
14 department of revenue, shall relate to the procedures for the  
15 issuance of the certificates and the related tax credits, for  
16 the transfer of a certificate and related tax credit by a  
17 designated investor, and for the redemption of a certificate  
18 and related tax credit by a designated investor or transferee.  
19 The board shall also establish criteria and procedures for  
20 assessing the likelihood of future certificate redemptions by  
21 designated investors and transferees, including, without  
22 limitation, criteria and procedures for evaluating the value  
23 of investments made by the Iowa fund of funds and the returns  
24 from the Iowa fund of funds.

25 7. Pursuant to section 15E.66, the board shall issue  
26 certificates which may be redeemable for tax credits to  
27 provide incentives to designated investors to make equity  
28 investments in the Iowa fund of funds. The board shall issue  
29 the certificates so that not more than twenty million dollars  
30 of tax credits may be initially redeemable in any fiscal year.  
31 The board shall indicate on the tax certificate the principal  
32 amount of the tax credit and the ~~taxable-year-or-years-for~~  
33 date or dates on which the credit may be first claimed.

34 Sec. 2. Section 15E.65, subsection 2, paragraph a, Code  
35 2005, is amended to read as follows:

1 a. The Iowa fund of funds shall be organized as a private,  
2 for-profit, limited partnership or limited liability company  
3 under Iowa law pursuant to which the Iowa capital investment  
4 corporation shall be the general partner or manager. The  
5 entity shall be organized so as to provide for equity  
6 interests for designated investors which provide for a  
7 designated scheduled rate of return ~~and a scheduled redemption~~  
8 ~~which shall occur not less than five years following the~~  
9 ~~issuance of such equity interests.~~ The interest of the Iowa  
10 capital investment corporation in the Iowa fund of funds shall  
11 be to serve as general partner or manager and to be paid a  
12 management fee for the service as provided in section 15E.64,  
13 subsection 8, and to receive investment returns of the Iowa  
14 fund of funds in excess of those payable to designated  
15 investors. Any returns in excess of those payable to  
16 designated investors shall be reinvested by the Iowa capital  
17 investment corporation by being held in the Iowa fund of funds  
18 as a revolving fund for reinvestment in venture capital funds  
19 or investments until the termination of the Iowa fund of  
20 funds. Any returns received from these reinvestments shall be  
21 deposited in the revolving fund.

22 Sec. 3. Section 15E.66, subsections 1, 2, 3, and 5, Code  
23 2005, are amended to read as follows:

24 1. The board may issue certificates and related tax  
25 credits to designated investors which, if redeemed for the  
26 maximum possible amount, shall not exceed a total aggregate of  
27 one hundred million dollars of tax credits. The certificates  
28 shall be issued contemporaneously with an investment a  
29 commitment to invest in the Iowa fund of funds by a designated  
30 investor. A certificate issued by the board shall have a  
31 specific calendar-year maturity date or dates designated by  
32 the board ~~of not less than five years after the date of~~  
33 ~~issuance~~ and shall be redeemable ~~on a schedule similar to the~~  
34 ~~scheduled redemption of investments by designated investors~~  
35 only in accordance with the contingencies reflected on the

1 certificate or incorporated therein by reference. A  
2 certificate and the related tax credit shall be transferable  
3 by the designated investor. A tax credit shall not be claimed  
4 or redeemed except by a designated investor or transferee in  
5 accordance with the terms of a certificate from the board. A  
6 tax credit shall not be claimed for a tax year that begins  
7 during earlier than the calendar-year maturity date or dates  
8 stated on the certificate. An individual may claim the credit  
9 of a partnership, limited liability company, S corporation,  
10 estate, or trust electing to have the income taxed directly to  
11 the individual. The amount claimed by the individual shall be  
12 based upon the pro rata share of the individual's earnings  
13 from the partnership, limited liability company, S  
14 corporation, estate, or trust. Any tax credit in excess of  
15 the taxpayer's tax liability for the tax year may be credited  
16 to the tax liability for the following seven years, or until  
17 depleted, whichever is earlier.

18 2. The board shall certify the maximum amount of a tax  
19 credit which could be issued to a designated investor and  
20 identify the specific calendar-year earliest date or dates the  
21 certificate may be redeemed pursuant to this division. The  
22 amount of the tax credit shall be limited to an amount  
23 equivalent to any difference between the scheduled aggregate  
24 return to the designated investor at rates of return  
25 authorized by the board and aggregate actual return received  
26 by the designated investor and any predecessor in interest of  
27 capital and interest on the capital. The rates, whether fixed  
28 rates or variable rates, shall be determined pursuant to a  
29 formula stipulated in the certificate or incorporated therein  
30 by reference. The board shall clearly indicate on the  
31 certificate, or incorporate therein by reference, the  
32 schedule, the amount of equity investment, the calculation  
33 formula for determining the scheduled aggregate return on  
34 invested capital, and the calculation formula for determining  
35 the amount of the tax credit that may be claimed. Once moneys

1 ~~are-invested-by~~ issued to a designated investor, the a  
2 certificate shall be binding on the board and the department  
3 of revenue and shall not be modified, terminated, or  
4 rescinded.

5 3. If a designated investor or transferee elects to redeem  
6 a certificate, the certificate shall not be redeemed ~~on-June~~  
7 ~~30-of~~ prior to the ~~calendar-year~~ maturity date or dates stated  
8 on the certificate. At the time of redemption, the board  
9 shall determine the amount of the tax credit that may be  
10 claimed by the designated investor based upon the returns  
11 received by the designated investor and its predecessors in  
12 interest and the provisions of the certificate. The board  
13 shall issue a verification to the department of revenue  
14 setting forth the maximum tax credit which can be claimed by  
15 the designated investor with respect to the redemption of the  
16 certificate.

17 5. The board shall issue the tax credits in such a manner  
18 that not more than twenty million dollars of tax credits may  
19 be initially redeemable in any fiscal year. The board shall  
20 indicate on the tax certificate the principal amount of the  
21 tax credit and the ~~taxable-year-or-years-for~~ maturity date or  
22 dates on which the credit may be first claimed.

23 Sec. 4. EFFECTIVE DATE. This Act, being deemed of  
24 immediate importance, takes effect upon enactment.

25 EXPLANATION

26 This bill relates to tax credit certificates issued by the  
27 Iowa capital investment board.

28 Currently, the contingencies to redemption of the tax  
29 credit certificates are tied to the scheduled rates of return  
30 and scheduled redemptions of equity interests purchased by  
31 designated investors in the Iowa fund of funds. The bill  
32 eliminates the requirement that contingencies to redemption be  
33 tied to scheduled redemptions.

34 Currently, the tax credit certificates are issued  
35 contemporaneously with an investment in the Iowa fund of

1 funds. The bill provides that the certificates shall be  
2 issued contemporaneously with a commitment to invest in the  
3 Iowa fund of funds.

4 The bill provides that a tax credit certificate issued by  
5 the board may have more than one maturity date and eliminates  
6 the requirement that the maturity date be not less than five  
7 years after the date of issuance. The bill provides that a  
8 tax credit certificate shall be redeemable only in accordance  
9 with the contingencies reflected on the certificate or  
10 incorporated therein by reference and eliminates the  
11 requirement that the certificates shall be redeemable on a  
12 schedule similar to the scheduled redemption of the  
13 investments by designated investors.

14 The bill provides that a tax credit shall not be claimed  
15 for a tax year that begins earlier than the maturity date or  
16 dates stated in the certificate.

17 The bill provides that the board shall identify the  
18 specific earliest date or dates the certificate may be  
19 redeemed instead of identifying the specific calendar year.

20 Currently, a tax credit certificate is binding on the board  
21 and the department of revenue once moneys are invested by a  
22 designated investor. The bill provides that the certificate  
23 is binding upon issuance to the designated investor.

24 Currently, if a designated investor elects to redeem a  
25 certificate, the certificate must be redeemed on June 30 of  
26 the calendar year maturity date stated on the certificate.

27 The bill provides that the designated investor or a  
28 transferee, upon election to redeem, shall not redeem the  
29 certificate prior to the maturity date or dates stated on the  
30 certificate.

31 The bill requires the board to identify on the certificate  
32 the maturity date or dates on which the credit may be first  
33 claimed.

34 The bill takes effect upon enactment.

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Stewart - Chair  
Seymour  
Kelly  
Brunkhorst

Succeeded By  
CF HF 114

SSB# 1064  
Economic Growth

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
ECONOMIC GROWTH BILL  
BY CO-CHAIRPERSON BRUNKHORST)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

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SENATE FILE 114

AN ACT

RELATING TO TAX CREDIT CERTIFICATES ISSUED BY THE IOWA CAPITAL INVESTMENT BOARD AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 15E.63, subsections 6 and 7, Code 2005, are amended to read as follows:

6. The board shall, in cooperation with the department of revenue, establish criteria and procedures for the allocation and issuance of tax credits to designated investors by means of certificates issued by the board. The criteria shall include the contingencies that must be met for a certificate to be redeemable by a designated investor or transferee in order to receive a tax credit. The contingencies to redemption shall be tied to the scheduled rates of return and ~~scheduled-redemptions~~ of equity interests purchased by designated investors in the Iowa fund of funds. The procedures established by the board, in cooperation with the department of revenue, shall relate to the procedures for the issuance of the certificates and the related tax credits, for the transfer of a certificate and related tax credit by a designated investor, and for the redemption of a certificate and related tax credit by a designated investor or transferee. The board shall also establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors and transferees, including, without limitation, criteria and procedures for evaluating the value of investments made by the Iowa fund of funds and the returns from the Iowa fund of funds.

7. Pursuant to section 15E.66, the board shall issue certificates which may be redeemable for tax credits to provide incentives to designated investors to make equity investments in the Iowa fund of funds. The board shall issue the certificates so that not more than twenty million dollars of tax credits may be initially redeemable in any fiscal year. The board shall indicate on the tax certificate the principal amount of the tax credit and the ~~taxable-year-or-years-for~~ date or dates on which the credit may be first claimed.

Sec. 2. Section 15E.65, subsection 2, paragraph a, Code 2005, is amended to read as follows:

a. The Iowa fund of funds shall be organized as a private, for-profit, limited partnership or limited liability company under Iowa law pursuant to which the Iowa capital investment corporation shall be the general partner or manager. The entity shall be organized so as to provide for equity interests for designated investors which provide for a designated scheduled rate of return ~~and-a-scheduled-redemption which-shall-occur-not-less-than-five-years-following-the issuance-of-such-equity-interests.~~ The interest of the Iowa capital investment corporation in the Iowa fund of funds shall be to serve as general partner or manager and to be paid a management fee for the service as provided in section 15E.64, subsection 8, and to receive investment returns of the Iowa fund of funds in excess of those payable to designated investors. Any returns in excess of those payable to designated investors shall be reinvested by the Iowa capital investment corporation by being held in the Iowa fund of funds as a revolving fund for reinvestment in venture capital funds or investments until the termination of the Iowa fund of funds. Any returns received from these reinvestments shall be deposited in the revolving fund.

Sec. 3. Section 15E.66, subsections 1, 2, 3, and 5, Code 2005, are amended to read as follows:

1. The board may issue certificates and related tax credits to designated investors which, if redeemed for the maximum possible amount, shall not exceed a total aggregate of one hundred million dollars of tax credits. The certificates shall be issued contemporaneously with an investment a commitment to invest in the Iowa fund of funds by a designated investor. A certificate issued by the board shall have a specific ~~calendar-year~~ maturity date or dates designated by the board ~~of-not-less-than-five-years-after-the-date-of~~ issuance and shall be redeemable ~~on-a-schedule-similar-to-the scheduled-redemption-of-investments-by-designated-investors~~ only in accordance with the contingencies reflected on the certificate or incorporated therein by reference. A certificate and the related tax credit shall be transferable by the designated investor. A tax credit shall not be claimed or redeemed except by a designated investor or transferee in accordance with the terms of a certificate from the board. A tax credit shall not be claimed for a tax year that begins during earlier than the calendar-year maturity date or dates stated on the certificate. An individual may claim the credit of a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust. Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the tax liability for the following seven years, or until depleted, whichever is earlier.

2. The board shall certify the maximum amount of a tax credit which could be issued to a designated investor and identify the specific ~~calendar-year~~ earliest date or dates the certificate may be redeemed pursuant to this division. The amount of the tax credit shall be limited to an amount equivalent to any difference between the scheduled aggregate

return to the designated investor at rates of return authorized by the board and aggregate actual return received by the designated investor and any predecessor in interest of capital and interest on the capital. The rates, whether fixed rates or variable rates, shall be determined pursuant to a formula stipulated in the certificate or incorporated therein by reference. The board shall clearly indicate on the certificate, or incorporate therein by reference, the schedule, the amount of equity investment, the calculation formula for determining the scheduled aggregate return on invested capital, and the calculation formula for determining the amount of the tax credit that may be claimed. Once ~~moneys are-invested-by~~ issued to a designated investor, the a certificate shall be binding on the board and the department of revenue and shall not be modified, terminated, or rescinded.

3. If a designated investor or transferee elects to redeem a certificate, the certificate shall not be redeemed ~~on-June 30-of~~ prior to the calendar-year maturity date or dates stated on the certificate. At the time of redemption, the board shall determine the amount of the tax credit that may be claimed by the designated investor based upon the returns received by the designated investor and its predecessors in interest and the provisions of the certificate. The board shall issue a verification to the department of revenue setting forth the maximum tax credit which can be claimed by the designated investor with respect to the redemption of the certificate.

5. The board shall issue the tax credits in such a manner that not more than twenty million dollars of tax credits may be initially redeemable in any fiscal year. The board shall indicate on the tax certificate the principal amount of the tax credit and the ~~taxable-year-or-years-for~~ maturity date or dates on which the credit may be first claimed.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

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JEFFREY M. LAMBERTI  
President of the Senate

---

CHRISTOPHER C. RANTS  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 114, Eighty-first General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved 3/14, 2005

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THOMAS J. VILSACK  
Governor