

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 1136 (Article 4 only)

DATE: February 5, 2010

Version: As introduced

Authors: Lenczewski and Brod

Subject: Angel Investment Credit

Analyst: Joel Michael (joel.michael@house.mn) and Nina Manzi (651 296-5204)

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Overview

Provides a job growth investment credit to individuals and regional investment funds tax equal to 25 percent of “angel” venture capital investments in qualifying businesses engaged in manufacturing, technology, research and development, with 50 percent of investments qualifying for credits required to be made in qualifying green jobs businesses, engaged in producing green products, renewable energy, green services, or environmental conservation.

The maximum credit for individual investors is \$100,000 and the maximum for funds is \$500,000, with a total of \$1 million per year allocated to individual investors and \$2 million allocated to funds. Credits that exceed tax liability may be carried forward for up to ten years.

Note: H.F. 1136, Article 4, is the same as H.F. 1194, Article 3 (Downey)

Section

- 1 Job growth investment credit.** Provides a tax credit for angel or early stage venture capital investments by individuals or funds.

Subd. 1. Definitions. Defines the following terms:

- **Qualifying small business** is any business engaged in a wide variety of lines of business (e.g., any type of manufacturing, technology, R&D, or developing new processes or products) other than real estate development, financial services, wholesale or retail trade, hospitality or professional services. The business must have its headquarters and 51 percent of its employees in Minnesota. It cannot have more than 100 employees or \$2 million or more in gross receipts. (Nor can it be an affiliate or subsidiary of a company that is larger than those measures.) It cannot have received more than \$2 million in private equity investments or more than \$500,000 in investments qualifying for the credit. (This presumably applies before the investment that qualifies for the credit is made.) Businesses with five or more

employees must provide minimum wage and benefit amounts to 75 percent of its employees in excess of the first five. These minimums equal 175 percent of federal poverty level for a family of four.

- **Qualifying green job small businesses** must meet the restrictions for a qualifying small business, but also can be engaged in a producing green products, renewable energy, green services, or environmental conservation.
- **Regional investment fund** is a pooled investment fund that invests in qualifying small businesses or qualifying green job small businesses and is organized as a pass-through entity with at least five investors who are qualified taxpayers.
- **Qualified taxpayer** is defined as an accredited investor under SEC Reg D (generally requires net worth of \$1 million or annual income of \$200,000 or more, \$300,000 for a married couple) who does not own or control 20 percent or more of the voting power of the qualifying small business or qualifying green job small business and does not receive more than 50 percent of the income from the business.

Subd. 2. Credit allowed. Allows a 25-percent, nonrefundable credit for investments in a qualified regional investment fund, a qualifying small business, or a qualifying green job small business. The maximum credit cannot exceed the liability for tax or \$100,000 per year for qualified taxpayers and \$500,000 per year for regional investment funds. The credit is claimed in the third year after the investment is made (e.g., an investment made in tax year 2010 would generate a tax credit in tax year 2013) and the investments must be maintained for that three-year period to qualify. Exceptions are provided (and the credit may be claimed even though the investment has been disposed of before the end of the three-year period), if the investment becomes worthless or business is sold. A 10-year carryforward is allowed for credits that exceed the taxpayer's tax liability.

Subd. 3. Qualified regional investment fund. To be a qualified fund for the credit, a fund must have (1) at least two-thirds of its members (i.e., investor) must be residents of its region, (2) at least 60 percent of its investments must be made in its region, and (3) 50 percent of its investments must be in qualifying green job small businesses. These funds can make debt type investments ("notes").

Subd. 4. Certification of funds. Provides for certification of regional funds by the commissioner of the Department of Employment and Economic Development (DEED). Funds must apply to DEED (and pay an application fee of \$1,250). DEED can certify up to 20 regional funds per year. (The bill is unclear if annual certification is required or if these certifications are permanent.) No more than three funds may be certified that cover more than 15 counties and no more than five funds may qualify for tax credits for investments in the seven-county Twin Cities metropolitan area. No fund can qualify for more than \$500,000 in credits per year; these credits are allocated to its investors. The total credit allocation for all funds is limited to \$2 million per year for fiscal years 2011 through 2013. The commissioner provides final credit certificates upon a showing that the fund has met the three-year holding requirement and is eligible for the credit.

Subd. 5. Fund requirements. Requires each fund to enter an agreement with DEED requiring annual reports on wage and benefit payments by the businesses the fund invests in and specifying how it will meet the regional and green business allocation requirements.

Subd. 6. Certification of individual investors. Provides for certification of individual investors by DEED. Investors must apply and pay an application fee of \$250. DEED can certify up to 40 investors per year and can provide up to \$100,000 of credit certificates to each investor. No more than 10 of these can be seeking to invest in the seven-county Twin Cities metropolitan area. Investors must make at least \$25,000 in investments to qualify and half of the amount invested by each investor must be in green businesses. The total credit allocation per year for fiscal years 2011 through 2013 is limited to \$1 million. The commissioner provides final credit certificates upon a showing that the investor has met the three-year holding requirement and is eligible for the credit.

Subd. 7. Qualified individual investor requirement. Requires the commissioner of DEED to enter agreements with each certified investor, requiring reports on wage and benefit levels and to satisfy the required allocation to green businesses.

Subd. 8. APA exemption. Provides DEED is exempt from rulemaking under the Administrative Procedures Act in establishing procedures and requirements to implement the credit.

- 2 Job growth investment credit.** Allows the angel investment credit, as described under section 1 to be claimed against the individual income, corporate franchise, and alternative minimum taxes. The commissioner of revenue retains the right to audit eligibility for the credit, despite the certification by the commissioner of DEED of an investor's eligibility for the credit.