MN HOUSE RESEARCH

Bill Summary

# H.F. 2360

As amended by H2360A1

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| **Subject** | **New markets tax credit** |
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## Overview

H.F. 2360 would allow a new markets tax credit in Minnesota, similar to the federal credit. The bill would allow a credit for 50 percent of the amount an investor invests in a qualified community development entity (QCDE). The 50 percent amount could be claimed over a period of five years, beginning two years after the investment is made.

Within one year from receiving an investment, a QCDE would be required to make an investment in qualified active community low-income businesses in Minnesota (qualified businesses), which are defined by reference to the federal credit.

A maximum of $100 million would be allocated to the credit (but not claimed) in tax years 2026 and 2027, meaning that the seven-year holding period would begin in either of those taxable years with the first ten percent credit amounts taken in 2028. Investments would be required to be made by the end of 2027 and no credit could be claimed after 2033. $50 million of the credit would be allocated to qualified businesses in the seven-county metro area and $50 million would be allocated to greater Minnesota.

The Department of Employment and Economic Development (DEED) would administer the credit. An account for fee revenue relating to the credit would be created and amounts from this account would be appropriated to DEED for purposes of administering the credit.

## Summary

| Section | Description |
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| 1 | **New markets tax credit.**<br>Applies the rules governing disclosure of certain non-tax information by the Department of Revenue to DEED to the issuance of new market tax credit certificates.<br><br>Effective date: day following final enactment. |
| 2 | **Classification and release of data on individuals.**<br>Allows the commissioner of DEED to release data on individuals to the Department of Revenue for purposes of administering the new markets tax credit.<br><br>Effective date: day following final enactment. |
| 3 | **New markets tax credit.**<br>Establishes the new markets tax credit program, which would be administered by DEED.<br><br>**Subd. 1. Definitions.**<br>a. Defines the following terms for the new credit:<br>b. “Affiliated group” has the meaning as provided under the insurance premiums tax.<br>c. “Applicable percentage” means zero percent for the first two credit allowance dates and ten percent for each of the final five credit allowance dates.<br>d. “CDFI fund” means the CDFI fund of the US Department of Treasury.<br>e. “Commissioner” means the commissioner of DEED.<br>f. “Credit allowance date” means the date on which an equity investment is made and each of the six subsequent anniversary dates.<br>g. “Greater Minnesota allocation” means $100 million of investment authority awarded to qualified businesses in a greater Minnesota county.<br>h. “Greater Minnesota county” means a nonmetro county.<br>i. “Internal Revenue Code” has the meaning provided in chapter 290.<br>j. “Metropolitan allocation” means $100 million of investment authority awarded to qualified businesses in a metro county.<br>k. “Metropolitan county” means a county referenced under section 473.121 and includes the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washinton.<br>l. “Minnesota qualified community development entity” means an entity, or a controlling entity, headquartered in Minnesota. |

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m. "Principal business operations" means the physical location where at least 60 percent of a qualified business's employees work. Special rules would apply for out-of-state businesses relocating to Minnesota.
n. "Purchase price" means the amount paid to a QCDE for a qualified equity investment.
o. "Qualified active low-income community business" has the same meaning as under section 45D(d)(2) of the IRC, which requires meeting various tests relating to the conduct of business in a low-income community and for the type of property held by the business. Certain real estate businesses would be excluded.
p. "Qualified community development entity" has the same meaning as under section 45D(c), which requires a QCDE to meet certain requirements for serving low-income communities and persons, and must be certified by the secretary of the treasury. Certain small business investment companies and community development financial institutions would also qualify under the federal rules. A QCDE would also be required to have an allocation agreement with the CDFI fund, which must include Minnesota in the service area.
q. "Qualified equity investment" means an equity investment in a QCDE. 50 percent of a qualified equity investment in non-Minnesota QCDEs would be required to be designated as qualified equity investments federally.
r. "Qualified low-income community investment" means a capital or equity investment, or loan to a qualified business.
s. "Tax credit" and "credit" means a credit against the individual income or corporate franchise taxes, or the premiums tax (including a retaliatory tax).
t. "Taxpayer" means a taxpayer for purposes of the individual income or corporate franchise tax, or the premiums tax.

**Subd. 2. Credit allowed; qualification; limitation.** Allows a credit against the individual income and corporate franchise taxes, and the premiums tax, equal to the applicable percentage of the purchase price of a qualified equity investment, that is, ten percent of an investor's investment for each of the last five years of a seven-year investment period.

Prohibits sales of the assignment, but allows the credit to be assigned to another member of an insurance company's affiliated group.

**Subd. 3. Application.** Requires a QCDE to apply to the commissioner of DEED to designate an investment as a qualified equity investment, which allows the investment to qualify for the credit. Among other requirements, except as provided below, the QCDE would have to specify the percentage of the allocation

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| | sought under the greater Minnesota or metro allocation, or both. A $5,000 application fee would also be required. Applications would have to be submitted within 30-45 days after the federal CDFI fund announces allocation awards.<br><br>Allows the commissioner to accept applications if the applicant has not specified the percentage of the allocation sought between greater Minnesota and the metro area, under certain conditions. These amounts would be allocated pro rata to investments not requiring a qualified equity investment designation under the federal credit.<br><br>**Subd. 4. Certification and timing of qualified equity investments.** Establishes application, allocation, and compliance procedures for the credit.<br><br>$100 million of credits would be allocated for investments in greater Minnesota and the metro area and a QCDE would be required to make investments by January 1, 2028.<br><br>A QCDE could transfer its investment authority to its controlling entity, affiliate group, or partner of a controlling entity (if it's also a QCDE), provided that certain requirements are met.<br><br>The commissioner of DEED must notify the commissioner of revenue within 15 days of approving a credit.<br><br>**Subd. 5. Credit recapture.** Requires the credit amount to be recaptured if the federal credit is recaptured, the QCDE redeems or repays an equity investment prior to the seven-year investment period, or the QCDE doesn't invest 100 percent of the investment as required, within 12 months of the qualified equity investment.<br><br>Recaptured amounts would be assessed by the Department of Revenue and the taxpayer would not be eligible for future credits for the equity investment.<br><br>**Subd. 6. Examination.** Allows the commissioner of DEED to conduct examinations to verify that credits are properly received and applied, and for purposes of enforcing the recapture provisions.<br><br>**Subd. 7. Annual reporting by community development entities.** Requires a QCDE to submit an annual report to the commissioner on the qualified investments made by the QCDE and pay an annual fee of $1,500. The report must include documentation on the entity's investments, information on job growth and salaries at qualified businesses, information regarding recapture, and relevant changes for taxpayers/investors. |

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| | **Subd. 8. Program report.** By 2034, requires the commissioners of DEED and DOR to report to the legislature on the credit.<br><br>**Subd. 9. Expiration.** Expires the credit for tax years in 2034.<br><br>**Subd. 10. Account created; appropriation.** Creates an account in the special revenue fund which is appropriated to DEED for application and administration costs.<br><br>Effective date: tax years in 2026. |
| 4 | **Disclosure to Department of Employment and Economic Development.**<br>Allows the commissioner of revenue to share return information with DEED to administer the credit.<br><br>Effective date: day following final enactment. |
| 5 | **New markets tax credit.**<br>Allows the credit to be claimed against the individual income and corporate franchise taxes. The credit is not refundable, but a five-year carryover would be allowed.<br><br>Effective date: tax years in 2026. |
| 5 | **New markets tax credit.**<br>Allows the credit to claimed against the premium tax paid by insurance companies.<br><br>Effective date: tax years in 2026. |