HOUSE RESEARCH

Bill Summary

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Authors: Norton and others

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Overview

This bill provides an investment credit for angel investments in Greater Minnesota that is similar to the small business investment ("angel") credit that is available for businesses anywhere in the state. The credit differs from the statewide credit in the following ways:

- The credit rate is 50 percent (versus 25 percent for the statewide credit).
- Any startup agricultural processing or manufacturing business can qualify (rather than limiting it to businesses with proprietary products or processes as under the statewide credit).
- The mandatory minimum wage is set at the average hourly wage in Greater Minnesota (rather than 175 percent of the federal poverty level for a family of four under the statewide credit).

The bill allocates $5 million in one-time tax credits for this purpose.

Section

1 **Greater Minnesota Angel 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:

- **Family** is defined by reference to the Internal Revenue Code.
- **Greater Minnesota** is the area of the state outside of the seven county metropolitan area (the Metropolitan Council's jurisdiction area).

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- **Liquidation event** is the sale of a qualified investment for cash, other consideration, or conversion to another equity or debt interest.
- **Pass-through entity** is an S corporation, partnership, trust, or limited liability company that is not taxed as a C corporation.
- **Qualified fund** is defined by reference to the statewide angel credit.
- **Qualified investment** means an investment of at least $10,000 if made by a qualified investor, and of at least $30,000 if made by a qualified fund.
- **Qualified investor** is defined by reference to the statewide angel credit.
- **Qualifying small business** is a business certified by the commissioner of the Department of Employment and Economic Development (DEED).

Subd. 2. Certification of qualified small business. Authorizes businesses to apply annually to DEED for certification and pay an application fee of $150. Application fees are deposited in an administrative account established in the special revenue fund. DEED has 30 days to certify the business, reject the application, or request additional information, and then an additional 30 days after receiving the additional information to certify the business or reject the application. If DEED fails to act the application is deemed rejected, and DEED must refund the application fee. Businesses may reapply for certification.

To receive certification, a business must be engaged in any of a wide variety of lines of business as its primary business (e.g., any type of manufacturing, agricultural processing, or R&D related to those) 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 Greater Minnesota. It cannot have more than 25 employees or have received more than $2 million in private equity investments. Business must pay all employees wages equal to the average hourly wage of employees in Greater Minnesota, with the exceptions of executives, officers, members of the board, and employees who have greater than a 20 percent ownership share in the business.

A business must be certified for the tax year before investments in the business qualify for the credit. Requires DEED to maintain a list of certified businesses on its Web site.

Subd. 3. Credit allowed. Allows a 50-percent, refundable credit for investments in a qualified small business. The maximum cumulative credit for a tax year is $250,000 for married couples filing joint returns, and $125,000 for all other filers. No more than $4 million in investments in any one qualified business over the life of the business are eligible for the credit (i.e., total credit limit for each business of $1 million). Prohibits the commissioner from allocating a credit to an investor who receives more than 50 percent of his or her annual gross income from the qualified business.

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Provides $5 million in credits for all tax years.

Requires investors and funds to apply to the commissioner for credits. The commissioner must award credits on a first-come, first-served basis, and must act on credit applications within 15 days. Investors and funds must make the investments specified in the credit application with 60 days; if they do not the credit allocation cancels and is available for reallocation. Requires DEED to provide credit certificates after receiving notification that the investment was made; the certificate must state that investments must be maintained for three years, or else the credit is revoked and must be repaid. 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.

Subd. 4. Annual reports. Requires qualified small businesses, investors, and funds that either receive or make investments resulting in credits to file annual reports with DEED and pay a $100 filing fee. Businesses, investors, and funds that fail to report are subject to a $500 fine.

Qualified small businesses must certify that the business maintains its headquarters in Greater Minnesota, has at least 51 percent of its payroll and employees in Greater Minnesota, is engaged in a qualifying line of business, and meets the 175 percent of the federal poverty guideline requirement for wages and benefits paid to employees.

Qualified investors and funds must certify that they remain invested in the business.

Subd. 5. Revocation of credits. Provides for full revocation of credits for investors and funds that fail to meet the three-year holding requirement, and for full or partial revocation of credits for businesses that do not retain 51 percent of their payroll and employees in Minnesota for five years after receiving an investment that qualified for the credit.

A business that does not have 51 percent of its payroll and employees in Greater Minnesota in the five years following receipt of an investment that qualifies for the credit must repay a percentage of the credit, as shown in the table:

Year after investment made	Percent of credits that must be repaid
1	100%
2	80%
3	60%
4	40%
5	20%
6 and later	0%

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Subd. 6. Data privacy. Makes data contained in certification applications from businesses, investors, and funds private, except the following items are public:

- Names of businesses, email and mail addresses and contact person for businesses, investors, and funds that receive certification
- Names of investors and funds that make investments resulting in credits, names of businesses receiving investments that result in credits, and the amount of each credit and corresponding qualifying investment
- Names of investors, funds, and businesses for which credits are revoked, and the amount revoked

Requires DEED to provide application data and the Department of Revenue to provide tax return data to the consultant under contract for the program evaluation under subdivision 10.

Subd. 7. Report to legislature. Requires DEED to report annually on the program to the tax and economic development committees of the legislature. The report must provide information on the number and amount of credits issued, the recipients, the line of business, and geographic location of each business that received certification, and also if the business received an investment that resulted in a credit, the amount of additional investments leveraged by the allowance of the credit, credit revocations, and other information relevant to evaluating the credit.

Subd. 8. Appropriation. Appropriates amounts in the Minnesota angel investment credit administration account to DEED for costs of administering the credit. Fees paid by businesses, investors, and funds to receive certification are deposited in the account in subdivisions 2, 3, and 4.

2 **Greater Minnesota Angel 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. Makes the credit refundable, and provides an open appropriation for payment of refunds.