HOUSE RESEARCH

Bill Summary

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Overview

This bill allows a nonrefundable new markets tax credit against the insurance premiums, corporate franchise, and individual income taxes. The credit equals 39 percent of the qualifying investment (allowed to be claimed over seven tax years). The maximum of total amount of these credits is set at $117 million to be awarded over a period of years (initial allocations are to be availble for tax year 2015).

Qualified community development entities serve as financial intermediaries that apply for tax credit allocations from the commissioner of the Department of Employment and Economic Development (DEED). They, in turn, sell the credits to investors (taxpayers under the three taxes) and use the proceeds from the sale to make either equity investments in or loans to qualified active low-income community businesses. The qualifying criteria and process are similar to the federal new markets tax credit program.

The program expires in 2029 or when all of the credits have been claimed, whichever occurs first. DEED is directed to report to the legislature on the program's effectiveness in 2022.

Section

1 **New markets tax credit.** Establishes and provides tax credit authority worth $117 million in tax reductions to be awarded over three years, beginning in 2015.

Section

Subd. 1. Definitions. Defines the following terms for the new market tax credit chapter:

- **Annual allocation authority** is the amount of credit authority that DEED is allowed to allocate for projects for a year.
- **Applicant** is a qualified community development entity.
- **Applicable percentage** determines the percentage rate of the credit for each tax year: 5 percentage points for years 1 to 3, and 6 percentage points for years 4 to 7. Thus, the total credit percentage is 39 percent of the investment ((5% * 3 = 15%) + (6% * 4 = 24%) = 39%).
- **Commissioner** is the commissioner of DEED.
- **Credit allowance date** means the day on which the qualifying equity investment was made and that day of each of the next six calendar years.
- **Greater Minnesota** means area of the state outside of the jurisdiction of the Metropolitan Council.
- **Internal Revenue Code** means the code as defined under the individual income and corporate franchise tax chapter.
- **Investments held by an issuer** means equity investments and loans held by an issuer. Amounts repaid or redeemed must be reinvested within 12 months, except this doesn't apply to repayments more than six years after the year the credit was received.
- **Issuer** is a qualified community development entity or a subsidiary that applies for an allocation of tax credits. These are the financial intermediaries that apply for tax credit allocations and, then, sell the credits to investors and use the proceeds to make investments in qualified low-income community investments.
- **Purchase price** is the amount paid by an investor for a qualified equity investment to receive an allocation for a tax credit.
- **Qualified active low-income community business** has the same meaning as applies under the federal new markets credit, but excludes the following:
    1. Businesses engaged in insurance, banking, lending, lobbying, political consulting, or leisure
    2. Activity consisting of operating a golf course, country club, suntan or hot tub facility, massage parlors, facilities used for gambling, and liquor stores (off-sale only).
- **Qualified community development entity** has the same meaning as applies under the federal new markets credit. The following additional requirements also apply:
    1. The entity has received an allocation of the federal credit at some point.
    2. The federal allocation provided credits for investments in Minnesota.

Section

3. Its primary mission must be economic development and it must have experience serving Minnesota businesses.

- **Qualified equity investment** means an equity investment in a qualified community development entity that satisfies the following requirements:
  1. The investment was made after January 1, 2015.
  2. The issuer uses at least 95 percent of the purchase price to make qualified low-income community investments (amounts returned or redeemed to an issuer must be reinvested at an 85 percent rate).
  3. DEED certifies the investment under subdivision 2.
  4. A 5-percent limit applies to amounts held in a loan loss reserve.
- **Qualified low-income community investment** is an investment (either an equity investment or a loan) to a qualified active low-income community business.
- **Tax credit** includes the credit allowed against the individual income and corporate franchise taxes under sections 2 and 3.
- **Taxpayer** is an individual subject to the individual income tax, a corporation subject to the corporate franchise tax, or an insurance company subject to the insurance premiums tax.

Subd. 2. Credit allowed; qualifications; limitation. Authorizes $300 million of credit authority to be used for nonrefundable new market tax credits. A 5-year carryforward is allowed for credits that exceed tax liability. Since the credit rate is 39 percent, this authority is the equivalent of $117 million in tax reductions. The credits are not transferrable, but for pass through entities, they may be allocated among the partners or shareholders as provided in the partnership or shareholder agreement.

Subd. 3. Certification. Requires issues to certify to DEED the amount of investment they expect to be made in the first year after the allocation.

Subd. 4. Amount certified. Directs the commissioner to certify up to $300 million of credit authority in 2015-2017. The commissioner is to select projects based on the criteria in subdivision 5.

Subd. 5. Application. Directs the commissioner to develop an application form that will provide information necessary to evaluate applications for credit allocations and directs the commissioner to consider the following factors before allocating credits to applicants:

- The qualified community development entity's experience in helping disadvantaged businesses and communities in Minnesota
- The applicant's experience in risk management and compliance with tax credit requirements
- Retention of the benefit of the credit in Minnesota
- Provision of above-poverty level wages and benefits

Section

- Whether state credit leverages benefits under the federal credit
- Nonstate financial contributions to the project
- Any other criteria the commissioner deems appropriate

Subd. 6. Credit recapture. Directs the commissioner to recapture the credit, if a federal credit for the project is recaptured.

Subd. 7. Allocation of credit. Directs the commissioner to allocate the credit based on the criteria of subdivision 5 and to allocate an unspecified proportion to Greater Minnesota.

Subd. 8. Suballocation. Authorizes a qualified community development entity to transfer all or part of its allocation to a subsidiary, if 30-day written notice is provided to DEED. The subsidiary is subject to the same rules and restrictions that apply to the parent.

Subd. 9. Annual reporting. Requires the entities receiving tax credit allocations to make annual reports to DEED within 180 days after the end of its fiscal year. This report must provide information on its investments, including types of businesses, counties in which the investments were made, and number of jobs created or retained (including average compensation for them). In addition, annual financial statements must be provided within 120 days after the end of the entity's fiscal year.

Subd. 10. Application fees; fund created. Requires applicants to pay a nonrefundable application fee. DEED appears to be authorized to set this fee as part of specifying the application requirements. Although the fee is nonrefundable, up to one-quarter of it can be deferred until 180 days after the allocations are made and another one-quarter until 270 days after the allocation is made. Fees are deposited in a new markets credit account in the special revenue fund.

Subd. 11. Administrative fees. Authorizes indirectly DEED to impose administrative fees on issuance of investment by entities awarded tax credits and provides for deposit of the fees in the new markets tax credit account established under subdivision 10.

Subd. 12. Appropriation for DEED's administrative expenses. Appropriates amounts in the new markets tax credit account to DEED for its administrative expenses related to the tax credit.

Subd. 13. Program report. Requires DEED to report to the legislature by December 31, 2022, on the implementation and success of the program.

Subd. 14. Expiration; administrative rules. Provides the tax credit authority expires by the earlier of 2029 or when the last of the tax credits have been used or cancelled. The commissioner of DEED is required to issue administrative rules allowing implementation of the tax credit for tax year 2015.

2 **Corporate franchise and individual income tax credit.** Allows the new markets tax credit to be claimed against the individual income and corporate franchise taxes under the terms and limits provided in section 1. The commissioner of revenue retains the power to audit allowance of the credit, notwithstanding the issuance of credit certificates by DEED.

Section

3 **Insurance premiums tax credit.** Allows the new markets tax credit to be claimed against the insurance premiums tax under the terms and limits provided in section 1. The commissioner of revenue retains the power to audit allowance of the credit, notwithstanding the issuance of credit certificates by DEED.