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Subject: Investment in rural jobs tax credit

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Overview

This bill creates a rural jobs tax credit program administered by the Department of Employment and Economic Development (DEED). Under this program, DEED will issue up to $60 million of tax credits to rural growth funds. The funds receiving tax credit allocations must raise additional capital of $40 million, so that the program will yield $100 million in rural investments. Funds receiving tax credits will issue them to investors who, in turn, will use them to offset income, corporate franchise, or insurance premiums tax. The investors will claim the tax credits in the third through sixth years (25 percent of the credit each year) after the investment was made. Thus, after the two-year delay, the credit amount is allowed in full. The tax credits are nonrefundable, but have an unlimited carryover to future years.

The funds must make investments over a six-year period in rural businesses (defined as principally operating outside of the seven-county metropolitan area and outside of the urbanized area of Duluth, Rochester, and St. Cloud. Businesses must have no more than 250 employees and no more than $15 million in net income before the investment is made. These businesses must be engaged in manufacturing, plant sciences, services or technology, or related industries or other activities that DEED concludes will be “highly beneficial to the state’s economic growth” but 25 percent of each fund’s investments must be made in manufacturing businesses.

Section

1 **Investment in rural jobs tax credit.** Provides a tax credit for investments in rural growth funds.

Section

Subd. 1. Title. Names the bill the "Minnesota Rural Jobs Act."

Subd. 2. Definitions. Defines terms used in the bill. Key definitions are:

Affiliate is an entity controlled or owned by another entity;

Closing date is the date on which a fund raised the capital needed to meet the investment authority in its business plan;

Commissioner is the commissioner of DEED;

Credit-eligible capital investment is a cash investment in a rural growth fund for which a tax credit certificate has been issued. It can either be an equity investment or a loan with a maturity of at least five years;

Principal business operations is the place where 60 percent of either the business's employees or payroll are located. An out-of-state business can agree to relocate its employees to meet the test;

Rural area means the area of Minnesota outside the seven-county metro area and outside a city or town with population over 50,000, and its associated urbanized area;

"**Rural business concern**" means a business that at the time of initial investment:

- Has fewer than 250 employees and not more than $15 million in net income in the preceding tax year;
- Has its principal business operation located in a rural area; and
- Is engaged in manufacturing, plant sciences, services or technology, or related industries, or the commissioner determines that investment in the business will be highly beneficial to the state's economic growth;

Rural growth fund is a fund certified by DEED to qualify for the tax credit; and

Rural growth investment is an equity investment or loan to a rural business concern with a maturity of one year or more.

Subd. 3. Application, certification, and allocation. Authorizes businesses to apply annually to DEED for certification as rural growth funds and pay an unspecified application fee, which is refunded for rejected applications. 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. Businesses may reapply for certification.

Applications must include:

- The total investment authority sought under the business plan.
- Documentation that the business is licensed as either a rural business investment company or a small business investment company, as defined under federal law, and has previously invested at least $100 million in nonpublic companies located in rural areas.
- The estimated number of jobs that will be created or retained in Minnesota as a result of the business' rural investments.

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- A business plan that includes a revenue impact assessment that is based on a dynamic economic forecasting estimate of state and local tax revenues projected to result from the business' rural investments over the 10 years following the application.
- A signed affidavit from each investor committing to specified amounts of contributions that will be eligible for credits.

The commissioner must reject applications for any of the following reasons:

- The application is incomplete or the fee was not paid in full.
- The business does not satisfy required criteria.
- The revenue assessment included in the business plan does not show that the economic impact to the state over the 10 year period exceeds the total amount of credits that would be issued if the application were approved.
- The credit-eligible contributions certified in the application are less than 60 percent of the total investment authority sought under the business plan.

The maximum amount of investment authority is $100 million and credit-eligible contributions is $60 million. If applications for investment authority exceed $100 million, the commissioner must proportionally reduce investment authority and credit-eligible contributions to avoid exceeding the limits.

The commissioner must approve applications that meet the requirements of this subdivision, and on approval:

- Certify the business as a rural growth fund.
- Specify the amount of the business' investment authority.
- Provide a tax credit certificate to each investor who submitted an affidavit.

Within 60 days of approval, a business must document to the commissioner that it has collected the contributions from each investor and collected enough additional cash to meet the investment authority. At least 10 percent of the investment authority must be made up of equity investments made by affiliates, including employees, officers, and directors of the affiliates. If a business fails to do so, its investment authority and credit-eligible contributions are cancelled. The commissioner must first use cancelled amounts to make whole any applications that were subject to proportional reductions under the maximum limits, and may award any remaining amounts to new applicants.

Subd. 4. Credit allowed. Allows a credit against the individual income, corporate franchise, and insurance premiums tax to investors issued credit certificates. Prohibits credits from being sold or transferred except to affiliates.

Subd. 5. Revocation; exit from program. Requires the commissioner to revoke credit certificates if any of the following occurs before a business exits the program:

- The fund does not invest 100 percent of its investment authority within 2 years of the closing date, with at least 25 percent invested in manufacturing;
- The fund fails to maintain investments equaling at least 100 percent of the investment authority through the sixth anniversary of the closing date;
- The fund makes a distribution so that the full amount of the investment authority is neither invested in Minnesota nor available for investment;
- The fund invests more than 20 percent of its authority in a single business; or
- The fund makes an investment in a business that owns, lends to, or invests in the fund itself, an affiliate of the fund, or an investor in the fund.

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A fund is not considered an affiliate of a business solely as a result of its investment and specifies conditions under which investments are considered to be maintained.

The commissioner must notify funds prior to revoking credits, and the funds have 90 days from notification to correct violations. The commissioner must first use revoked credits to make whole any applications that were proportionally reduced when the applications were considered, and may award any remaining amounts to new applicants.

Funds may apply to exit the program on or after the sixth anniversary of the closing date. Requires the commissioner to approve exit if the fund has not had any credits revoked and has corrected violations that resulted in notification from the commissioner.

Prohibits the commissioner from revoking credits after a fund has exited the program.

Subd. 6. Commissioner opinion on investment. Authorizes funds to request a written opinion from the commissioner as to if a business is a "rural business concern" under the credit. The commissioner has 15 days to issue a determination; failure to respond means that the business is considered to be a rural business concern.

Subd. 7. Reports. Requires funds to report to the commissioner within one year and 5 business days after the closing date. The report must document investments and jobs created or retained. Beginning the following year funds must annually report on jobs created or retained and the average annual salary of jobs reported on in the previous year's report.

Subd. 8. Appropriations. Appropriates amounts in the investment in rural jobs tax credit administration account to DEED for costs of administering the credit. Fees paid by businesses to receive certification are deposited in the account.

Subd. 9. Rulemaking. Requires DEED to adopt administrative rules to administer the credit.

2 **Investment in rural jobs tax credit.** Allows the investment in rural jobs tax credit in section 1 to be claimed against the individual income and corporate franchise taxes. The credit is claimed 25 percent per year in the third through sixth years after a fund's closing date (when the rural growth fund raised its capital and filed documentation with DEED), so that at the end of the six-year period investors will have claimed credits equal to 100 percent of their investment. Credit amounts in excess of liability may be carried to future tax years until fully used.

Effective date: tax year 2018

3 **Investment in rural jobs tax credit.** Allows the investment in rural jobs tax credit in section 1, to be claimed against the insurance premiums tax. The credit is claimed 25 percent per year in the third through sixth years after a fund's closing date, so that at the end of the six-year period investors will have claimed credits equal to 100 percent of their investment. Credit amounts in excess of liability may be carried to future tax years until fully used. Allowance of the credit does not affect calculation of state police and fire aid.

Effective date: tax year 2018