HOUSE RESEARCH

Bill Summary

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Overview

This bill creates a new markets tax credit program with maximum credit authority of $300 million to be allocated over three taxable years. This is a nonrefundable 39 percent credit against the income, corporate, or insurance taxes for investments made by investors who receive the tax credits from intermediaries that apply for and receive tax credits from the Department of Employment and Economic Development (DEED). The investments must be made in the types of community businesses that qualify under the federal new markets credit. Credits are claimed by investors over a seven-year period starting with the year of the investment.

Effective beginning in tax year 2017, except credits are not allowed against the insurance premiums tax until tax year 2018.

<u>**Section**</u>

1 **New markets tax credit.** Establishes a new markets tax credit program.

Subd. 1. Definitions. Defines the following terms.

- **Applicant** is a qualified community development entity (defined below).
- **Applicable percentage** is used to allocate the 39 percent credit across multiple taxable years. It is five percent for years one to three (15 percent for those three years) and six percent for years four to seven (24 percent for those four years).
- **Commissioner** is the commissioner of DEED.

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- **Greater Minnesota** means the area outside of the seven-county Minneapolis-St. Paul metropolitan area.
- **Internal Revenue Code** means the version of the Internal Revenue Code that applies to the Minnesota income and corporate franchise taxes under chapter 290.
- **Investment held by an issuer** means any capital or equity investment or loan held by an issuer. If investments are sold or repaid, amounts must be reinvested within 12 months, except this requirement does not apply after the sixth anniversary of the issuance of the qualified investment.
- **Issuer** means a qualified community development entity or its subsidiary that apply for state tax credits and issue them to taxpayers in exchange for qualified equity investments in a qualified community development entity.
- **Purchase price** is the amount paid to the issuer for a qualified equity investment for a tax credit allocation.
- **Qualified active low-income community businesses** are the defined businesses that qualify under the federal new markets credit rules, excluding businesses engaged in insurance, banking, lending, lobbying, political consulting, operating a private club, golf courses, casinos, liquor stores, suntan facilities, and massage parlors.
- **Qualified community development entity** is defined by reference to federal new markets credit rules. To qualify, an entity must have an agreement with the U.S. Treasury Department allocating it a federal credit for investments located in Minnesota, as well as direct lending experience.
- **Qualified equity investment** means an equity investment in a qualified community development entity after January 1, 2017. The securities must be purchased for cash, all of which is used to invest in qualified, active, low-income community businesses. The investment cannot qualify for federal new markets tax credits if the proceeds are used to make investments in other qualified community development entities.
- **Qualified low-income community investment** means any investment in or loan to a qualified active low-income community business.
- **Tax credit** means a credit against the individual income, corporate franchise, or insurance premiums taxes.
- **Taxpayer** means an individual or entity subject to the individual income, corporate franchise, or insurance premiums taxes.

Subd. 2. Credit allowed. Allows a 39 percent new markets tax credit to taxpayers making qualified equity investments. The credit is claimed over a period of seven tax years at the rates specified in the definitions. The credit is not refundable (it cannot exceed tax liability) or transferable; however, for investments made by pass-through entities, the credit is allocated among the owners as provided in the agreement. (This effectively allows use of these entities to transfer credits by transferring ownership interests in these entities.) Amounts that exceed the investor's tax liability are

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permitted a five-year carryover. The maximum amount of credits allowed is $300 million.

Subd. 3. Certification. Requires an issuer to certify to DEED the amount of investment expected to be made in the first year after allocation of the credit authority to the issuer.

Subd. 4. Amount certified. Directs DEED to certify the $300 million of tax credits over tax years 2017 to 2019, based on a competitive review of the applications for allocations.

Subd. 5. Review of applications. Directs DEED to establish an application form and process and specifies the factors to be considered in determining which applicants receive allocations and the amounts. These criteria must include:

(1) the technical expertise of the applicant;

(2) whether the proposal ensures the benefits remain in Minnesota;

(3) whether wages and benefits are expected to exceed the poverty guidelines; and

(4) the expected financial contributions from nonstate sources. DEED can establish additional criteria.

Subd. 6. Credit recapture. Provides for credit recapture if a federal credit for the investment is also recaptured. (It is not necessary to qualify for a federal credit to receive the Minnesota credit. No recapture appears to apply in those circumstances.)

Subd. 7. Allocation. Directs DEED to allocate the credits to applicants under criteria in subdivision 5. Proportional allocation to greater Minnesota is required; although, it is not specified on what basis the proportion is to be calculated (number of applications received, amount of credit applied for, or some other measure, such as population).

Subd. 8. Suballocation. Authorizes a qualified community development entity to transfer all or part of its credit allocations to subsidiaries. It must notify DEED within 30 days, and the subsidiary is subject to the same restrictions and rules as the entity.

Subd. 9. Annual reporting. Requires annual reporting to DEED by community development entities that made investments on the characteristics of the businesses invested in, their locations, and the number of jobs created or retained including wage and benefit information.

Subd. 10. Application fees. Requires payment of a nonrefundable application fee and authorizes DEED to set this as part of the application. The fees must be payable in installments with no more than half of it due with the application and the remaining two quarters due six and nine months after the application is filed. The fees are deposited in a new markets tax credit account in the DEED special revenue fund.

Subd. 11. Administrative fees. Allows DEED to set administrative fees that are due when an equity investment is issued. The fees are deposited in a new markets tax credit account in the DEED special revenue fund.

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Subd. 12. Administrative expenses. Provides an open appropriation of the amounts in the new markets tax credit account to DEED for program administrative costs.

Subd. 13. Program report. Requires DEED to report to the legislature on the program by December 31, 2024.

Subd. 14. Expiration. Provides the program expires seven years after its enactment, but expiration does not affect the validity of tax credit allocations made, except that they expire at the end of 2031.

2 **New markets credit; individual income and corporate franchise taxes.** Makes conforming changes to the income and corporate franchise tax statute allowing the credit and granting the commissioner of revenue audit powers over the credit.

3 **New markets credit; insurance premiums tax.** Makes conforming changes to the insurance premiums tax statute allowing the credit and provides that the credit does not affect calculation of police and fire aid.