

E AND R AMENDMENTS TO LB 156

Introduced by Hansen, 26, Chairman Enrollment and Review

1           1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:

3           Section 1. Section 77-6306, Revised Statutes Cumulative Supplement,  
4 2014, is amended to read:

5           77-6306 (1) For taxable years beginning or deemed to begin on or  
6 after January 1, 2011, under the Internal Revenue Code of 1986, as  
7 amended, a qualified investor or qualified fund is eligible for a  
8 refundable tax credit equal to thirty-five percent of its qualified  
9 investment in a qualified small business, except that if the qualified  
10 small business is located in a distressed area the qualified investor or  
11 qualified fund is eligible for a refundable tax credit equal to forty  
12 percent of its qualified investment in the qualified small business. The  
13 director shall not allocate more than four ~~three~~ million dollars in tax  
14 credits to all qualified investors or qualified funds in a calendar year.  
15 If the director does not allocate the entire four ~~three~~ million dollars  
16 of tax credits in a calendar year, the tax credits that are not allocated  
17 shall not carry forward to subsequent years. The director shall not  
18 allocate any amount for tax credits for calendar years after 2019.

19           (2) The director shall not allocate more than a total maximum amount  
20 in tax credits for a calendar year to a qualified investor for the  
21 investor's cumulative qualified investments as an individual qualified  
22 investor and as an investor in a qualified fund as provided in this  
23 subsection. For married couples filing joint returns the maximum is three  
24 hundred fifty thousand dollars, and for all other filers the maximum is  
25 three hundred thousand dollars. The director shall not allocate more than  
26 a total of one million dollars in tax credits for qualified investments  
27 in any one qualified small business.

1           (3) The director shall not allocate a tax credit to a qualified  
2 investor either as an individual qualified investor or as an investor in  
3 a qualified fund if the investor receives more than forty-nine percent of  
4 the investor's gross annual income from the qualified small business in  
5 which the qualified investment is proposed. A family member of an  
6 individual disqualified by this subsection is not eligible for a tax  
7 credit under this section. For a married couple filing a joint return,  
8 the limitations in this subsection apply collectively to the investor and  
9 spouse. For purposes of determining the ownership interest of an investor  
10 under this subsection, the rules under section 267(c) and (e) of the  
11 Internal Revenue Code of 1986, as amended, apply.

12           (4) Tax credits shall be allocated to qualified investors or  
13 qualified funds in the order that the tax credit applications are filed  
14 with the director. Once tax credits have been approved and allocated by  
15 the director, the qualified investors and qualified funds shall implement  
16 the qualified investment specified within ninety days after allocation of  
17 the tax credits. Qualified investors and qualified funds shall notify the  
18 director no later than thirty days after the expiration of the ninety-day  
19 period that the qualified investment has been made. If the qualified  
20 investment is not made within ninety days after allocation of the tax  
21 credits, or the director has not, within thirty days following expiration  
22 of the ninety-day period, received notification that the qualified  
23 investment was made, the tax credit allocation is canceled and available  
24 for reallocation. A qualified investor or qualified fund that fails to  
25 invest as specified in the application within ninety days after  
26 allocation of the tax credits shall notify the director of the failure to  
27 invest within five business days after the expiration of the ninety-day  
28 investment period.

29           (5) All tax credit applications filed with the director on the same  
30 day shall be treated as having been filed contemporaneously. If two or  
31 more qualified investors or qualified funds file tax credit applications

1 on the same day and the aggregate amount of tax credit allocation  
2 requests exceeds the aggregate limit of tax credits under this section or  
3 the lesser amount of tax credits that remain unallocated on that day,  
4 then the tax credits shall be allocated among the qualified investors or  
5 qualified funds who filed on that day on a pro rata basis with respect to  
6 the amounts requested. The pro rata allocation for any one qualified  
7 investor or qualified fund shall be the product obtained by multiplying a  
8 fraction, the numerator of which is the amount of the tax credit  
9 allocation request filed on behalf of a qualified investor or qualified  
10 fund and the denominator of which is the total of all tax credit  
11 allocation requests filed on behalf of all applicants on that day, by the  
12 amount of tax credits that remain unallocated on that day for the taxable  
13 year.

14 (6) A qualified investor or qualified fund, or a qualified small  
15 business acting on behalf of the investor or fund, shall notify the  
16 director when an investment for which tax credits were allocated has been  
17 made and shall furnish the director with documentation of the investment  
18 date. A qualified fund shall also provide the director with a statement  
19 indicating the amount invested by each investor in the qualified fund  
20 based on each investor's share of the assets of the qualified fund at the  
21 time of the qualified investment. After receiving notification that the  
22 qualified investment was made, the director shall issue tax credit  
23 certificates for the taxable year in which the qualified investment was  
24 made to the qualified investor or, for a qualified investment made by a  
25 qualified fund, to each qualified investor who is an investor in the  
26 fund. The certificate shall state that the tax credit is subject to  
27 revocation if the qualified investor or qualified fund does not hold the  
28 investment in the qualified small business for at least three years,  
29 consisting of the calendar year in which the investment was made and the  
30 two following calendar years. The three-year holding period does not  
31 apply if:

1 (a) The qualified investment by the qualified investor or qualified  
2 fund becomes worthless before the end of the three-year period;

3 (b) Eighty percent or more of the assets of the qualified small  
4 business are sold before the end of the three-year period;

5 (c) The qualified small business is sold or merges with another  
6 business before the end of the three-year period;

7 (d) The qualified small business's common stock begins trading on a  
8 public exchange before the end of the three-year period; or

9 (e) In the case of an individual qualified investor, such investor  
10 becomes deceased before the end of the three-year period.

11 (7) The director shall notify the Tax Commissioner that tax credit  
12 certificates have been issued, including the amount of tax credits and  
13 all other pertinent tax information.

14 Sec. 2. Section 77-6307, Revised Statutes Cumulative Supplement,  
15 2014, is amended to read:

16 77-6307 (1) ~~Each Beginning July 1, 2012, each~~ qualified small  
17 business, qualified investor, and qualified fund shall submit an annual  
18 report to the director by July 1 of each year ~~identifying the amount of~~  
19 ~~money that has been invested by or in it in the previous calendar year~~  
20 ~~under the Angel Investment Tax Credit Act.~~

21 ~~(2)~~ The report shall certify that the business, investor, or ~~and~~ fund  
22 satisfies the requirements of the Angel Investment Tax Credit Act and  
23 shall include all information which will enable the Department of  
24 Economic Development to fulfill its reporting requirements under section  
25 77-6309 act.

26 (2 3) A qualified small business that ceases all operations and  
27 becomes insolvent shall file a final report with the director in the form  
28 required by the director documenting its insolvency.

29 (3 4) To maintain the confidentiality of the qualified investor and  
30 qualified small business, the Department of Economic Development shall  
31 use a designated number to identify such persons or businesses.

1           (4 5) A qualified small business, qualified investor, or qualified  
2 fund that fails to file a complete ~~an~~ annual report by July 1 shall, at  
3 the discretion of the director, be subject to a fine of two hundred  
4 dollars, revocation of its certification, or both.

5           Sec. 3. Section 77-6309, Revised Statutes Cumulative Supplement,  
6 2014, is amended to read:

7           77-6309 (1) By November 15 of each odd-numbered year, the Department  
8 of Economic Development shall submit a report to the Legislature and the  
9 Governor that includes:

10           (a) The number and geographic location of qualified investors;  
11           (b) The number, geographic location, and amount of qualified  
12 investment made into each qualified small business;

13           (c) The total amount of all grants, loans, incentives, and  
14 investments that are not qualified investments received by each qualified  
15 small business since receiving the initial qualified investment;

16           (d e) A breakdown of the industry sectors in which qualified small  
17 businesses are involved;

18           (e d) The number of actual tax credits issued by project under the  
19 Angel Investment Tax Credit Act on an annual basis; and

20           (f e) The number and annual salary or wage of jobs created at each  
21 qualified small business since receiving the initial qualified  
22 investment.

23           The report submitted to the Legislature shall be submitted  
24 electronically.

25           (2) Information received, developed, created, or otherwise  
26 maintained by the Department of Economic Development and the Department  
27 of Revenue in administering and enforcing the Angel Investment Tax Credit  
28 Act, other than information required to be included in the report to be  
29 submitted by the Department of Economic Development pursuant to this  
30 section, may be deemed confidential by the respective departments and not  
31 subject to public disclosure.

1           Sec. 4. Original sections 77-6306, 77-6307, and 77-6309, Revised  
2 Statutes Cumulative Supplement, 2014, are repealed.

3           Sec. 5. Since an emergency exists, this act takes effect when passed  
4 and approved according to law.

5           2. On page 1, strike beginning with "section" in line 1 through line  
6 4 and insert "sections 77-6306, 77-6307, and 77-6309, Revised Statutes  
7 Cumulative Supplement, 2014; to change the amount of tax credits allowed  
8 and reporting requirements under the Angel Investment Tax Credit Act; to  
9 repeal the original sections; and to declare an emergency."